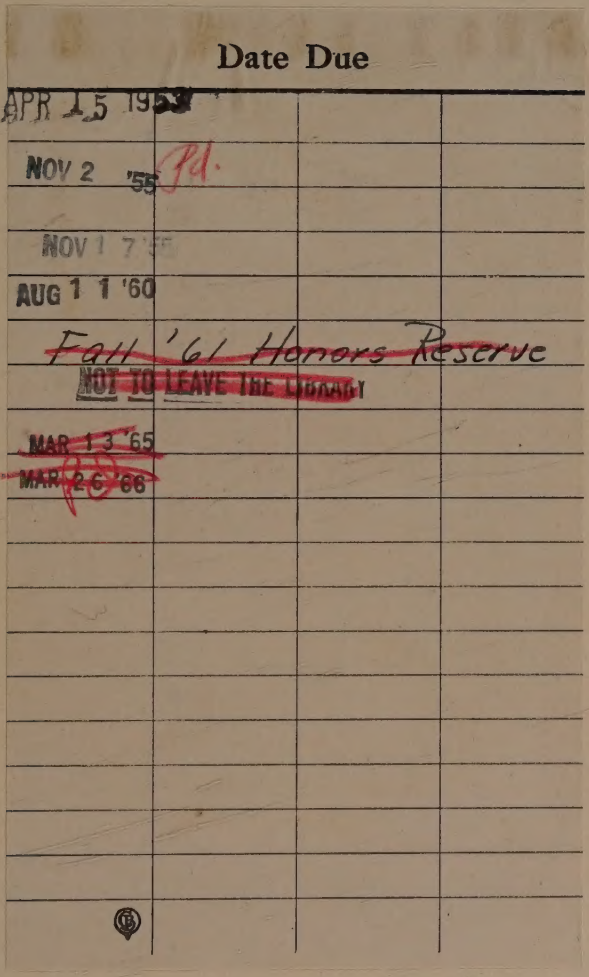
UNIVERSITY OF
CHARLESTON LIBRARY
1700030083

MORRIS HARVEY COLLEGE
CHARLESTON, WEST VIRGINIA

ANDREW S. THOMAS
MEMORIAL LIBRARY

CALL NUMBER
342.73
T39f

ACCESSION
12667


Date Due
APR 15 19
NOV 2 '55
NOV 17
AUG 11 '60
Fall '61 Honors Reserve
NOT TO LEAVE THE LIBRARY
MAR 13 '65
MAR 26 '66

THE FEDERAL AND STATE

CONSTITUTIONS

COLONIAL CHARTERS, AND OTHER ORGANIC LAWS

OF THE

STATES, TERRITORIES, AND COLONIES

NOW OR HERETOFORE FORMING

THE UNITED STATES OF AMERICA

Compiled and Edited
under the Act of Congress of June 30, 1906

By

FRANCIS NEWTON THORPE, Ph. D., LL. D.

Member of the Pennsylvania Bar; Fellow and Professor of American Constitutional History at the University of Pennsylvania, 1885–1898; Member of the American Historical Association; Author of The Constitutional History of the United States, 1765–1895; A (State) Constitutional History of the American People, 1776–1850; A Short Constitutional History of the United States; A (Social and Economic) History of the American People; A History of the Civil War; Editor of the History of North America, Volumes IX, XV, XVI, XVIII, XIX, XX; Author of The Government of the People of the United States; Benjamin Franklin and the University of Pennsylvania; The Life of William Pepper, etc.

HARVEY COLLEGE LIBRARY
HENDERSONVILLE, N.C.

VOL. I

United States—Alabama—District of Columbia

WASHINGTON
GOVERNMENT PRINTING OFFICE
1909

DISCARD

342.73
T39f

TABLE OF CONTENTS

[AN ALPHABETICAL INDEX WILL BE FOUND AT THE END OF THE LAST VOLUME.]

	Page.
LIST OF AUTHORITIES	XV
THE UNITED STATES:	
The Declaration of Independence—1776	3
Articles of Confederation—1777	9
Constitution of the United States—1787	19
Amendments to the Constitution of 1787	29
Commissions, charters, and plans of Union:	
Privileges and prerogatives granted to Christopher Columbus—1492	39
Bull of Pope Alexander—1493	41
Letters patent to John Cabot—1496	45, 46
Letters patent to Sir Humfrey Gylberte—1578	49
Charter to Sir Walter Raleigh—1584	53
Charter of the Dutch West India Company—1621	59
Sir Robert Heath's patent—1629	69
New England articles of confederation—1643	77
The Albany plan—1754	83
ALABAMA:	
Charter of Carolina—1663	2753
Proprietary proposals, North Carolina—1663	2743
Charter of Carolina—1665	2761
Fundamental constitutions, Carolina—1669	2772
Charter of Georgia—1732	765
Constitution of South Carolina—1776	3241
Constitution of Georgia—1777	777
Constitution of South Carolina—1778	3248
Constitution of Georgia—1789	785
Territory south of the Ohio—1790	3413
Territorial government, Mississippi—1798	2025
Territorial government, Mississippi—1800	2027
Territorial government, Mississippi—1808	2029
Proclamation, occupation of [Louisiana] Territory—1810	1375
Territorial government, Alabama—1817	89
Treaty with Spain—1819	649
Enabling act, Alabama—1819	92
Resolution for admission of Alabama—1819	95
Constitution, Alabama—1819	96
Constitution, Alabama—1865	116
Constitution, Alabama—1867	132
Constitution, Alabama—1875	153
Constitution, Alabama—1901	182
ALASKA:	
Treaty ceding Alaska—1867	235
Civil government in Alaska—1884	238
Civil government in Alaska—1900	243
ARIZONA:	
Treaty with Mexico—1848	377
Territorial government of New Mexico—1850	2615
Treaty with Mexico—1853	255
Territorial government—1863	259
Enabling act—1906 (*see* Oklahoma)	2960

Page.

ARKANSAS:
Treaty with France ceding Louisiana—1803 1359
Act of Congress establishing the district government of Louisiana—1804 1364
Act of Congress establishing the Territorial government of Louisiana—1805 1371
Act of Congress establishing the Territorial government of Missouri—1812 2139
Act of Congress establishing the Territorial government of Arkansas—1819 261
Constitution of Arkansas—1836 268
Act of Congress enabling Arkansas to become a State—1836 264
Supplementary act of Congress enabling Arkansas to become a State—1836 266
Ordinance of acceptance by Arkansas—1836 267
Constitution of Arkansas—1864 288, 4157
Constitution of Arkansas—1868 306
Constitution of Arkansas—1874 333

CALIFORNIA:
Treaty with Mexico ceding California—1848 377
Constitution of California—1849 391
Act for admission of California—1850 390
Constitution of California—1879 412

CHARTERS AND COMMISSIONS (*see* Commissions, Charters, and Plans of Union—1492–1754) 39–86
See also Charters under respective States.

COLORADO:
Treaty with France ceding Louisiana—1803 1359
Organic acts, Mexico–Texas—1824–1845 3475–3547
Government of the Indian country—1834 1097
Convention between the United States and Texas—1838 3543
Treaty with Mexico ceding Texas—1848 377
Territory of Mexico—1850 2615
Territory of Utah—1850 3687
Territories, Kansas and Nebraska—1854 1161
Act of Congress establishing the Territorial government of Colorado—1861 463
Act of Congress enabling Colorado to become a State—1875 470
Proclamation announcing the admission of Colorado—1876 473
Constitution of Colorado—1876 474

CONNECTICUT:
Virginia charter—1606 3783
Council for New England—1620 1827
Fundamental orders of Connecticut—1638–39 519
Commission to Andros—1688 1863
Fundamental agreement or original constitution of the Colony of New Haven, June 4, 1639 523
Government of New Haven Colony—1643 526
Charter of Connecticut—1662 529
Constitution of Connecticut—1818 536

DELAWARE:
Virginia charter—1606 3783
Dutch West India Company's patent—1621 59
Maryland charter—1632 1669
Grant to Duke of York—1664 1637
Grant to Duke of York—1674 1641
Grant to William Penn—1681 3044
Frames of government, Pennsylvania—1682, 1683, 1696 3052, 3064, 3070
Charter of Delaware—1701 557
Constitution of Delaware—1776 562
Constitution of Delaware—1792 568
Constitution of Delaware—1831 582
Constitution of Delaware—1897 600

DISTRICT OF COLUMBIA:
Act fixing the seat of government—1790 637
Government of the District of Columbia—1801 638
Permanent government for District of Columbia—1878 641

	Page.
FLORIDA:	
Prerogatives granted to Christopher Columbus—1492	39
Bull of Pope Alexander conceding America to Spain—1493	41
Treaty with Spain fixing boundaries—1795	649
Treaty with Spain ceding Florida—1819	649
Temporary government of Florida—1819	656
Act of Congress establishing the Territorial government of Florida—1822	657
Constitution of Florida—1838	664
Act of Congress enabling Florida to become a State—1845	662
Constitution of Florida—1865	685
Constitution of Florida—1868	704
Constitution of Florida—1885	732
GEORGIA:	
Charter of Virginia—1606	3783
Charter of Carolina—1663	2743
Proprietary proposals—1663	2753
Charter of Carolina—1665	2761
Fundamental constitutions, Carolina—1669	2772
Charter of Georgia—1732	765
Constitution of Georgia—1777	777
Constitution of Georgia—1789	785
Constitution of Georgia—1798	791
Constitution of Georgia—1865	809
Constitution of Georgia—1868	822
Constitution of Georgia—1877	842
GUAM (*see* Philippines)	877
HAWAII:	
Joint resolution for annexation of Hawaiian Islands—1898	879
Territorial government of Hawaii—1900	881
IDAHO:	
Convention with Great Britain—1818	2983
Convention with Russia—1824	2983
Treaty with Great Britain—1846	2985
Territorial government, Oregon—1848	2986
Territorial government, Washington—1853	3963
Temporary government, Idaho—1863	905
Temporary government, Idaho—1864	912
Act for admission of Idaho—1890	913
Constitution of Idaho—1889	918
ILLINOIS:	
Act of cession by Virginia—1783	955
Deed of cession from Virginia—1784	957
Act of Congress establishing the Northwest Territorial government—1787	957
Act of ratification by Virginia—1788	963
Supplementary act of Congress establishing the Northwest Territory—1789	963
Act of Congress dividing the Northwest Territorial government—1800	964
Act of Congress establishing the Territorial government of Illinois—1809	966
Act of Congress enabling Illinois to become a State—1818	967
Ordinance by Illinois accepting the enabling act—1818	970
Resolution of Congress—1818	971
Constitution of Illinois—1818	972
Resolution of Congress declaring the admission of Illinois—1818	985
Constitution of Illinois—1848	985
Constitution of Illinois—1870	1013
INDIANA:	
Act of cession by Virginia—1783	955
Deed of cession from Virginia—1784	957
Act of Congress establishing the Northwest Territorial government—1787	957
Act of ratification by Virginia—1788	963
Supplementary act of Congress establishing the Northwest Territory—1789	963
Act of Congress dividing the Northwest Territorial government—1800	964

INDIANA—Continued. Page.
Act of Congress establishing the Territorial government of Indiana—1809 966
Supplementary act of Congress establishing the Territory of Indiana—1814 1053
Act of Congress enabling Indiana to become a State—1816 1053
Ordinance by Indiana accepting the enabling act—1816 1056
Constitution of Indiana—1816 1057
Resolution of Congress declaring the admission of Indiana—1816 1057
Constitution of Indiana—1851 1073
INDIAN TERRITORY:
Treaty ceding Louisiana—1803 1359
District of Louisiana—1804 1364
Territory of Lousiana—1805 1371
Territory of Missouri—1812 2139
Territory of Arkansas—1819 261
Act for government of the Indian country—1834 1097
Court in Indian Territory—1889 1104
Enabling act for Oklahoma and Indian Territory—1906 2960
IOWA:
Treaty with France ceding Louisiana—1803 1359
Act of Congress establishing the district government of Louisiana—1804 1364
Act of Congress establishing the Territorial government of Louisiana—1805 1371
Act of Congress establishing the Territorial government of Missouri—1812 2139
Act of Congress establishing the Territorial government of Michigan—1834 1111
Territorial government of Wisconsin—1836 4065
Act of Congress establishing the Territorial government of Iowa—1838 1111
Act of Congress enabling Iowa to become a State—1845 662,1118
Supplementary enabling act for Iowa—1845 1118
Act of Congress defining the boundaries of Iowa—1846 1121
Constitution of Iowa—1846 1123
Act of Congress declaring the admission of Iowa—1846 1122
Constitution of Iowa—1857 1136
KANSAS:
Treaty with France ceding Louisiana—1803 1359
Act of Congress establishing the district government of Louisiana—1804 1364
Act of Congress establishing the Territorial government of Louisiana—1805 1371
Act of Congress establishing the Territorial government of Missouri—1812 2139
Treaty with Spain—1819 649
Act for government of Indian country—1834 1097
Resolution admitting Texas—1845 3544
Treaty with Spain ceding California—1848 377
Act of Congress establishing the Territorial government of Kansas—1854 1161
Act for the admission of Kansas—1861 1176
Constitution of Kansas—1855 1179
Constitution of Kansas—1857 1201
Constitution of Kansas—1858 1221
Constitution of Kansas—1859 1241, 4157
KENTUCKY:
The three charters of Virginia—1606, 1609, 1611-12 3783, 3810-3812
Constitution of Virginia—1776 3812
Act of Congress establishing the Territorial government south of the Ohio—1790 1263
Act of Congress declaring the admission of Kentucky—1791 1264
Constitution of Kentucky—1792 1264
Constitution of Kentucky—1799 1277
Constitution of Kentucky—1850 1292
Constitution of Kentucky—1890 1316

LOUISIANA:
Page.
Treaty with France ceding Louisiana—1803 1359
Convention between the United States and the French Republic—1803 1362
Act of Congress for taking possession of Louisiana—1803 1364
Act of Congress establishing the district government of Louisiana—1804 1364
Act of Congress establishing the Territorial government of Orleans—1805 1371
Act of Congress establishing the Territorial government of Louisiana—1805 1373
Proclamation respecting taking possession of part of Louisiana—1810 1375
Act of Congress enabling Louisiana to become a State—1811 1376
Act of Congress declaring the admission of Louisiana—1812 1378
Constitution of Louisiana—1812 1380
Act of Congress enlarging the limits of Louisiana—1812 1380
Constitution of Louisiana—1845 1392
Constitution of Louisiana—1852 1411
Constitution of Louisiana—1864 1429
Constitution of Louisiana—1868 1449
Constitution of Louisiana—1879 1471
MAINE:
The charter of Acadia—1603 1619
The first charter of Virginia—1606 3783
Charter to Council of New England—1620 1827
Charter, Massachusetts Bay—1629 1846
Commission of Andros—1688 1863
Grant of Province of Maine to Gorges and Mason—1622 1621
Royal grant of the Province of Maine—1639 1625
Royal grant of the Province of Maine—1664 1637
Royal grant of the Province of Maine—1674 1641
The second charter of Massachusetts Bay—1691 1870
Explanatory charter, Massachusetts—1725 1886
Constitution, Massachusetts—1780 1888
The constitution of Maine—1819 1646, 4159
Cession of Maine by the State of Massachusetts—1820 1644
Act of Congress declaring the admission of Maine—1820 1645
MARYLAND:
Virginia charter—1606 3783
Virginia charter—1609 3790
Virginia charter—1612 3802
Ordinances of Virginia—1621 3810
Charter, Dutch West India Company—1621 59
The charter of Maryland—1632 1669
[Translation, 1677.]
Charter to Penn—1681 3035
Constitution of Maryland—1776 1686
Constitution of Maryland—1851 1712
Constitution of Maryland—1864 1741
Constitution of Maryland—1867 1779
MASSACHUSETTS:
The first charter of Virginia—1606 3783
The charter of New England—1620 1827
Agreement between the settlers at New Plymouth—1620 1841
Charter of Plymouth to William Bradford and his associates—1629 1841
The charter of Massachusetts Bay—1629 1846
Act of surrender of the great charter of New England to His Majesty—1635 1860
Bradford's surrender of his patent of Plymouth to the Freemen—1640 1861
Commission of Sir Edmund Andros—1688 1863
The charter of Massachusetts Bay—1691 1870
Explanatory charter of Massachusetts Bay—1725 1886
Constitution of Massachusetts—1780 1888
MICHIGAN:
Act of cession by Virginia—1783 955
Deed of cession from Virginia—1784 957

MICHIGAN—Continued. Page.
Act of Congress establishing the Northwest Territorial government—1787 957
Act of ratification by Virginia—1788 963
Act of Congress establishing the Northwest Territorial government—1789 963
Act of Congress dividing the Northwest Territorial government—1800 964
Enabling act, Illinois—1818 967
Act of Congress establishing the Territorial government of Michigan—1805 1925
Extension of Michigan Territory—1834 1111
Constitution of Michigan—1835 1930
Act of Congress enabling Michigan to become a State—1836 1926
Supplementary act for the admission of Michigan—1836 1928
Act of Congress for the admission of Michigan—1837 1929
Constitution of Michigan—1850 1944, 4204
MINNESOTA:
Act of cession by Virginia—1783 955
Virginia deed of cession—1784 957
Act of Congress establishing the Northwest Territory—1787 957
Virginia act of ratification—1788 963
Northwest Territorial government—1789 963
Act of Congress establishing the Territorial government of Indiana—1800 964
Treaty with France ceding Louisiana—1803 1359
Act of Congress establishing the Territorial government of Michigan—1805 1925
District of Louisiana—1804 1364
Territory of Louisiana—1805 1371
Act of Congress establishing the Territorial government of Illinois—1809 966
Act of Congress establishing the Territorial government of Missouri—1812 2139
Enabling act, Illinois—1818 967
Extension of Michigan Territory—1834 1111
Act of Congress establishing the Territorial government of Wisconsin—1836 4065
Act of Congress establishing the Territorial government of Iowa—1838 1111
Act of Congress establishing the Territorial government of Minnesota—1849 1981
Act of Congress enabling Minnesota to become a State—1857 1988
Constitution of Minnesota—1857 1991
Act of Congress for the admission of Minnesota—1858 1990
MISSISSIPPI:
Proprietary charter of Carolina—1663 2743
Proprietary proposals, North Carolina—1663 2753
Proprietary charter, Carolina—1665 2756
Fundamental constitutions, Carolina—1669 2772
Proprietary charter of Georgia—1732 765
Constitution, South Carolina—1776 3241
Constitution, Georgia—1777 777
Constitution, South Carolina—1778 3248
Constitution, Georgia—1789 785
Territory south of Ohio River—1790 3409
Act of Congress establishing the Territorial government of Mississippi—1798 2025
Act of Congress establishing the Territorial government of Mississippi—1800 2027
Act of Congress extending the right of suffrage in the Territory of Mississippi—1808 2029
Proclamation, occupation of Territory—1810 1375
Act of Congress enabling Mississippi to become a State—1817 2029
Act of Congress for the admission of Mississippi—1817 2032
Constitution of Mississippi—1817 2032
Constitution of Mississippi—1832 2049
Constitution of Mississippi—1868 2069
Constitution of Mississippi—1890 2090

Page.

MISSOURI:
Treaty with France ceding Louisiana—1803 1359
Act of Congress establishing the district government of Louisiana—1804 1364
Act of Congress establishing the Territorial government of Louisiana—1805 1371
Act of Congress establishing the Territorial government of Missouri—1812 2139
Act of Congress amending the act establishing the Territorial government of Missouri—1816 2144
Act of Congress enabling Missouri to become a State—1820 2145
Constitution of Missouri—1820 2150
Resolution for the admission of Missouri—1821 2148
Proclamation admitting Missouri—1821 2149
Ordinances of the convention of Missouri—1861–1863 2174
Constitution of Missouri—1865 2191
Constitution of Missouri—1875 2229

MONTANA:
Treaty ceding Louisiana—1803 1359
District of Louisiana—1804 1364
Territory of Missouri—1812 2139
Convention with Great Britain—1818 2983
Convention with Russia—1824 2983
Act for the government of the Indian country—1834 1097
Territory of Oregon—1848 2986
Territory of Washington—1853 3963
Territory of Nebraska—1854 1161
Territory of Idaho—1863 905
Temporary government, Territory of Montana—1864 2281
Enabling act for Montana—1889 2289
Proclamation announcing admission of Montana—1889 2299
Constitution of Montana—1889 2300

NEBRASKA:
Treaty with France ceding Louisiana—1803 1359
Act of Congress establishing the district government of Louisiana—1804 1364
Act of Congress establishing the Territorial government of Louisiana—1805 1371
Act of Congress establishing the Territorial government of Missouri—1812 2139
Act of Congress enabling Missouri to become a State—1820 2145
Act for government of Indian country—1834 1097
Treaty of Guadalupe-Hidalgo with Spain—1848 377
Act of Congress establishing the Territorial government of Nebraska and Kansas—1854 1161
Act of Congress enabling Nebraska to become a State—1864 2343
Constitution of Nebraska—1866–67 2349
Act of Congress for the admission of Nebraska—1867 2346
Proclamation announcing the admission of Nebraska—1867 2347
Constitution of Nebraska—1875 2361

NEVADA:
Treaty of Guadalupe-Hidalgo with Spain—1848 377
Act of Congress establishing the Territorial government of Utah—1850 3687
Act of Congress establishing the Territorial government of Nevada—1861 2391
Act of Congress enabling Nevada to become a State—1864 2397
Proclamation announcing the admission of Nevada—1864 2400
Constitution of Nevada—1864 2401

NEW HAMPSHIRE:
Virginia charter—1606 3783
Council for New England—1620 1827
Grant of New Hampshire to Mason—1629 2433
Charter of Massachusetts Bay—1629 1846
Grant of New Hampshire to Wollaston—1635 2437
Grant from Wollaston to Mason—1635 2439
Grant to Mason [Masonia]—1635 2441

	Page.
NEW HAMPSHIRE—Continued.	
Grant to Mason [New Hampshire]—1635	2443
Agreement of settlers at Exeter—1639	2445
Piscataqua River government—1641	2445
Commission of John Cutt—1680	2446
Commission to Andros—1688	1863
Constitution of New Hampshire—1776	2451
Constitution of New Hampshire—1784	2453
Constitution of New Hampshire—1792	2471
Amended constitution of 1792 [1906]	2491
Bibliographical outline	2513
NEW JERSEY:	
Virginia charter—1606	3783
Council for New England—1620	1827
Dutch West India Company—1621	59
Grant to the Duke of York—1664	1637
Duke of York's release to Lord Berkeley and Sir George Carteret—1664	2533
Concession and agreement [Nova Cæsarea]—1664	2535
Declaration of the lords proprietors—1672	2544
Grant to the Duke of York—1674	1641
Duke of York's grant to Carteret—1674	2546
Charter, or fundamental laws, West New Jersey—1676	2548
Duke of York's second grant to Penn and others—1680	2560
Province of West New Jersey—1681	2565
Duke of York's confirmation to the proprietors—1682	2567
Fundamental constitutions, East New Jersey—1683	2574
The Queen's acceptance of the surrender of government—1702	2584
Surrender of the Jerseys by the proprietors—1702	2585
Charles II's grant of New England to the Duke of York—1672–1712	2590
Constitution of New Jersey—1776	2594
Constitution of New Jersey—1844	2599, 4186
NEW MEXICO:	
Mexican constitution—1824	3475
Constitution of Coahuila and Texas—1827	3495
Constitution of Texas—1835	3520
Texas declaration of independence—1836	3520
Ordinances of Texas—1836	3530
Annexation of Texas—1845	3544
Admission of Texas—1845	3546
Territorial government of New Mexico—1850	2615
Mexican treaty of cession—1853	255
Enabling act for New Mexico and Arizona—1906	2960
NEW YORK:	
Virginia charter—1606	3783
Council for New England—1620	1827
Dutch West India Company's patent—1621	59
Charter of Massachusetts Bay—1629	1846
Charter of Connecticut—1662	529
Royal grant to the Duke of York—1664	1637
Royal grant to the Duke of York—1674	1641
Charter of Pennsylvania—1681	3035
Commission of orders—1688	1863
Constitution of New York—1777	2623
Constitution of New York—1821	2639
Constitution of New York—1846	2653
Constitution of New York—1894	2694
NORTH CAROLINA:	
Charter to Sir Walter Raleigh—1584	53
Charter of Virginia—1606	3783
Charter of Virginia—1609	3790
Charter of Virginia—1612	3802
Ordinances for Virginia—1621	3810
Charter of Carolina—1663	2743
Charter of Carolina—1665	2756
The fundamental constitutions of North Carolina—1669	2772
The Mecklenburgh resolutions—1775	2786

	Page.
NORTH CAROLINA—Continued.	
Constitution of North Carolina—1776	2787
Ordinance of the convention of North Carolina—1865	2799
Constitution of North Carolina—1868	2800
Constitution of North Carolina—1876	2822
NORTH DAKOTA:	
Treaty ceding Louisiana—1803	1359
District of Louisiana—1804	1364
Territory of Louisiana—1805	1373
Territory of Missouri—1812	2139
Act extending Michigan Territory—1834	1111
Territory of Wisconsin—1836	4065
Territory of Iowa—1838	1111
Territory of Minnesota—1849	1981
Territory of Nebraska—1854	1161
Temporary government of Dakota—1861	2845
Enabling act, North Dakota—1889	2281
Proclamation, admission of North Dakota—1889	2852
Constitution of North Dakota—1889	2854
OHIO:	
Act of cession by Virginia—1783	955
Deed of cession from Virginia—1784	957
Act of Congress establishing the Northwest Territorial government—1787	957
Act of ratification by Virginia—1788	963
Act of Congress establishing the Northwest Territorial government—1789	963
Act of Congress dividing the Northwest Territorial government—1800	964
Act of Congress enabling Ohio to become a State—1802	2897
Constitution of Ohio—1802	2901
Act of Congress recognizing the State of Ohio—1803	2900
Constitution of Ohio—1851	2913, 4157, 4158
OKLAHOMA:	
Treaty ceding Louisiana—1803	1359
District of Louisiana—1804	1364
Territory of Louisiana—1805	1373
Territory of Missouri—1812	2139
Territory of Arkansas—1819	261
Florida treaty—1819	649
Government of the Indian country—1834	1097
Organic acts, Mexico, Texas—1824–1845	3475–3569
New Mexico, Texas—1850	2615
Territorial government for Oklahoma—1890	2939
Enabling act, Oklahoma—1906	2960
Proclamation admitting Oklahoma	4269
Constitution of Oklahoma—1907	4271
OREGON:	
Convention with Great Britain—1818	2983
Convention with Russia—1824	2983
Treaty with Great Britain—1846	2985
Act of Congress establishing the Territorial government of Oregon—1848	2986
Constitution of Oregon—1857	2998
Act of Congress for the admission of Oregon—1859	2996
PANAMA CANAL ZONE:	
Act for construction of Isthmian Canal—1902	3021
Isthmian Canal convention—1903	3024
PENNSYLVANIA:	
Charter of Virginia—1606	3783
Council of New England—1620	1827
Dutch West India Company—1621	59
Charter of Maryland—1632	1669
Charter of Connecticut—1662	529
Grant to Duke of York—1664	1637
Grant to Duke of York—1674	1641
Charter for the province of Pennsylvania—1861	3035
Concessions to the province of Pennsylvania—1681	3044

	Page.
PENNSYLVANIA—Continued.	
Penn's charter of liberties—1682	3047
Frame of government of Pennsylvania—1682	3052
Frame of government of Pennsylvania—1683	3064
Frame of government of Pennsylvania—1696	3070
Charter of privileges for Pennsylvania—1701	3076
Constitution of Pennsylvania—1776	3081
Constitution of Pennsylvania—1790	3092
Constitution of Pennsylvania—1838	3104
Constitution of Pennsylvania—1873	3121
PHILIPPINE ISLANDS, THE:	
Treaty with Spain—1898	3153
Philippine Commission, the—1900	3158
Extension of powers of the Philippine Commission—1901	3165
Civil government of the Philippines—1902	3166
PLANS OF UNION:	
New England confederation—1643	77
Albany plan—1754	83
Articles of confederation—1777	9
Constitution of the United States—1787	19
PORTO RICO:	
Treaty of cession—1898	3153
Civil government of Porto Rico—1900	3191
Temporary provision for civil affairs of—1900	3202
RHODE ISLAND:	
Charter of Virginia—1606	3783
Council for New England—1620	1827
Commission of Andros—1688	1863
Agreement at Providence—1640	3205
Government of Rhode Island—1641	3207
Patent for Providence Plantations—1643	3209
Charter of Rhode Island and Providence Plantations—1663	3211
Constitution of Rhode Island—1842	3222
SAMOA (*see* Tutuila)	3675
SOUTH CAROLINA:	
Charter to Raleigh—1584	53
Charter of Virginia—1606	3783
Charter of Virginia—1609	3790
Charter of Virginia—1612	3802
Ordinances for Virginia—1621	3810
Charter of Carolina—1663	2743
Charter of Carolina—1665	2756
Constitution of South Carolina—1776	3241
Constitution of South Carolina—1778	3248
Constitution of South Carolina—1790	3258
Constitution of South Carolina—1865	3269
Constitution of South Carolina—1868	3281
Constitution of South Carolina—1895	3307
SOUTH DAKOTA:	
Treaty ceding Louisiana—1803	1359
District of Louisiana—1804	1364
Territory of Louisiana—1805	1373
Territory of Missouri—1812	2139
Act extending Michigan Territory—1834	1111
Territory of Wisconsin—1836	4065
Territory of Iowa—1838	1111
Territory of Nebraska—1854	1161
Enabling act for South Dakota—1889	2289
Proclamation of admission of South Dakota—1889	3355
Constitution of South Dakota—1889	3357
Virginia charter—1609	3790
Virginia charter—1612	3802
Ordinances for Virginia—1621	3810
Proprietary charter of Carolina—1663	2743
Proprietary proposals—1663	2753
Fundamental constitutions of Carolina—1669	2772
Constitution of North Carolina—1776	2787

	Page.
TENNESSEE:	
Act of Congress accepting the cession of Tennessee—1790	3409
Act of Congress establishing the Territorial government south of the Ohio—1790	3413
Act admitting Tennessee—1796	3414
Constitution of Tennessee—1796	3414
Constitution of Tennessee—1834	3426
Constitution of Tennessee—1870	3448
TEXAS:	
Spanish claim of dominion in America—1492–93 (Papal Bull)	41
Constitution of the Republic of Mexico—1824	3475
Constitution of Coahuila and Texas—1827	3495
Provisional constitution of Texas—1835	3520
Declaration of Texan independence—1836	3528
Executive ordinance of Texas—1836	3530
Constitution of the Republic of Texas—1836	3532
Convention between the United States and Texas—1838	3543
Consent of Texas to annexation—1845	3546
Constitution of Texas—1845	3547
Joint resolution of Congress admitting Texas into the Union—1845	3568
Treaty of Guadalupe-Hidalgo with Mexico—1848	377
Constitution of Texas—1866	3569
Constitution of Texas—1868	3591
Constitution of Texas—1876	3621
TUTUILA (SAMOA):	
General act for the Samoan Islands—1889	3675
Convention for the partition of Samoa—1899	3685
UTAH:	
Organic acts for Mexico and Texas—1824–1845	3475–3547
Treaty of Guadalupe-Hidalgo—1848	377
Territory of Utah—1850	3687
Enabling act for Utah—1894	3693
Proclamation of admission of Utah—1896	3699
Constitution of Utah—1895	3700
VERMONT:	
Constitution of Vermont—1777	3737
Constitution of Vermont—1786	3749
Act of Congress for the admission of Vermont into the Union—1791	3761
Constitution of Vermont—1793	3762
Historical note	3778
VIRGINIA:	
Grant to Sir Walter Raleigh—1584	53
The first charter of Virginia—1606	3783
The second charter of Virginia—1609	3790
The third charter of Virginia—1611–12	3802
Ordinances for Virginia—1621	3810
Declaration of rights by Virginia—1776	3812
Constitution of Virginia—1776	3812
Constitution of Virginia—1830	3819
Constitution of Virginia—1850	3829
Constitution of Virginia—1864	3852
Constitution of Virginia—1870	3871
Constitution of Virginia—1902	3904
WASHINGTON:	
Convention with Great Britain—1818	2983
Convention with Russia—1824	2983
Territorial government of Oregon—1848	2986
Territorial government of Washington—1853	3963
Enabling act for Washington—1889	2289
Proclamation of admission of Washington—1889	3971
Constitution of Washington—1889	3973
WEST VIRGINIA:	
Charter to Raleigh—1584	53
Charter of Virginia—1609	3790
Charter of Virginia—1612	3802
Ordinances of Virginia—1621	3810
Constitution of Virginia—1776	3812

	Page.
WEST VIRGINIA—Continued.	
Constitution of Virginia—1830	3819
Constitution of Virginia—1850	3829
Constitution of West Virginia—1861–1863	4013
Act of Congress for the admission of West Virginia—1862	4011
Proclamation of admission of West Virginia—1863	4012
Joint resolution transferring territory to West Virginia—1866	4013
Constitution of West Virginia—1872	4033, 4235
WISCONSIN:	
Act of cession by Virginia—1783	955
Deed of cession from Virginia—1784	957
Act of Congress establishing the Northwest Territorial government—1787	957
Act of ratification by Virginia—1788	963
Act of Congress establishing the Northwest Territorial government—1789	963
Act of Congress establishing the Territorial government of Indiana—1800–1809	964, 966
Act of Congress enabling Illinois to become a State—1818	967
Act of Congress establishing the Territorial government of Wisconsin—1836	4065
Act of Congress establishing the Territorial government of Iowa—1838	1111
Act of Congress enabling Wisconsin to become a State—1846	4071
Act of Congress for the admission of Wisconsin—1848	4074
Constitution of Wisconsin—1848	4077
WYOMING:	
Treaty ceding Louisiana—1803	1359
District of Louisiana—1804	1364
Territory of Louisiana—1805	1373
Territory of Missouri—1812	2139
Convention with Great Britain—1818	2983
Treaty ceding Florida and fixing boundaries—1819	649
Convention with Russia—1824	2983
Organic acts, Mexico, Texas—1824–1845	3475–3547
Act for government of Indian Territory—1834	1097
Annexation of Texas—1845	3544
Treaty with Great Britain—1846	2985
Treaty of Guadalupe Hidalgo—1848	377
Treaty of Oregon—1848	2986
Territory of Utah—1850	3687
Territory of Washington—1853	3963
Territory of Nebraska—1854	1161
Territory of Idaho—1863	905
Territory of Montana—1864	2281
Temporary government of Wyoming—1868	4105
Act for admission of Wyoming—1890	4111
Constitution of Wyoming—1889	4117

LIST OF AUTHORITIES

ADAMS

John Adams. Works. Edited by Charles Francis Adams. 10 vols. Boston: 1850–1856.

Adoption and Amendment of Constitutions in Europe and America. Charles Borgeaud. New York: 1897.

Journal of the Convention of the Alabama Territory. Begun July 5, 1819 [and ended August 2, 1819]. Huntsville: 1819. 8vo. 40 pp.

ALABAMA

The History and Debates of the Convention of the People of Alabama. Begun and held in the city of Montgomery, on the seventh day of January, 1861, in which is preserved the speeches of the secret sessions and many valuable State papers. By William R. Smith, one of the delegates from Tuscaloosa. Montgomery: Tuscaloosa: Atlanta: 1861. 464 pp. Index.

The Constitution and Ordinances adopted by the State Convention of Alabama, which Assembled at Montgomery on the twelfth day of September, A. D. 1865; with Index, Analysis, and Table of titles. By J. W. Shepherd. Montgomery: 1865. 88 pp. 80 pp.

Journal [and Ordinances] of the Constitutional Convention of Alabama, November 5–December 6, 1867. Montgomery: 1868. 3+291 pp.

Journal of the Constitutional Convention of the State of Alabama. Assembled in the city of Montgomery, September 6, 1875. Montgomery, Ala.: 1875. 231 pp.

Journal of the Proceedings of the Constitutional Convention of the State of Alabama. Held in the city of Montgomery, commencing May 1, 1901. Montgomery, Ala.: 1901. 1888 pp.

Two New Southern Constitutions [Alabama, 1901; Virginia, 1901]. By Albert E. McKinley. Political Science Quarterly. Vol. XVIII, No. 3. Boston: 1903.

Alabama Historical Society. *Transactions.*

ALMON

The Charters of the British Colonies in America. John Almon, London; 1775.

ARCHÆOLGIA AMERICANA

American Antiquarian Society. *Archæolgia Americana.*

AMERICAN COMMONWEALTHS

American Commonwealths Series. Edited by H. E. Scudder. Boston.

ANDREWS

Colonial Self-Government. C. M. Andrews. New York: 1904.

ARKANSAS

Ordinances of the State Convention which convened in Little Rock, May 6, 1861. Little Rock: 1861. 128 pp.

Journal of the [Constitutional] Convention, January 4–23, 1864. Little Rock: 1870. 58 pp.

The Constitution of the State of Arkansas. Framed and adopted by the convention which assembled at Little Rock, July 14, 1874, and ratified by the people of the State at the elections held October 13, 1874. With an appendix containing the Constitution of the United States and the Constitutions of Arkansas of 1836, 1861, 1864, and 1868. With notes by U. M. Rose. Little Rock, Ark.: 1891. 399 pp.

BANCROFT

History of the Formation of the Constitution of the United States of America. 2 vols. George Bancroft. New York: 1882.

A History of the United States. 6 vols. George Bancroft. New York: 1883–1885.

BELNAP

The History of New Hampshire. Jeremy Belnap. 3 vols. Boston: 1742. Appendix [documentary].

BURGESS

Political Science and Constitutional Law. 2 vols. J. W. Burgess. New York: 1890.

CALIFORNIA

Report of the Debates in the Convention of California on the Formation of the State Convention in September and October, 1849. By J. Ross Browne. Washington: 1850. 479 pp. App.

Debates and Proceedings of the Constitutional Convention of the State of California. Convention at the city of Sacramento, Saturday, September 28, 1878. E. B. Willis and P. K. Stockton, official stenographers. Sacramento: 1880. 3 vols. 4°. 640, 512, 425 pp.

California Historical Society. *Papers* and *Publications.*

CHALMERS

A Collection of Treaties between Great Britain and other Powers. George Chalmers. 2 vols. London: 1790.

CHANNING AND HART

Guide to the Study of American History. Edward Channing and Albert Bushnell Hart. Boston: 1903.

CONFEDERATION

For data *in re* The formation of the Articles of Confederation, consult the writings of John Adams, Franklin, John Dickinson, James Madison, Alexander Hamilton.

CONGRESS

Secret Journals of the Acts and Proceedings of Congress. 4 vols. Boston: 1821.

CONNECTICUT

The Public Records of the Colony of Connecticut (1636–1776). James Hammond Trumbull and Charles J. Hoodly. Hartford: 1850–1890.

New Haven [Conn.] Colony Historical Society. *Papers.*

Journal of the Proceedings of the Convention of Delegates convened at Hartford, August 26, 1818, for the Purpose of Forming a Constitution of Civil Government for the People of the State of Connecticut. Printed by Order of the General Assembly. Hartford: 1873. 121 pp.

Historical Notes of the Constitutions of Connecticut, 1639–1818, particularly on the Origin and Progress of the Movement which Resulted in the Convention of 1818 and the Adoption of the Present Constitution. By J. Hammond Trumbull. Hartford: 1873. 60 pp.

Celebration of the Two Hundred and Fiftieth Anniversary of the Adoption of the First Constitution of the State of Connecticut. By the Connecticut Historical Society and the Towns of Windsor, Hartford, and Wethersfield. Thursday, January 24, A. D. 1889. Hartford, Conn.: 1889. 98 pp.

Journal of the Constitutional Convention of Connecticut, 1902. Hartford: 1902. 493 pp.

Preliminary Journal of the Constitutional Convention of Connecticut. 467 pp. Hartford: 1902.

Collected Documents of the Constitutional Convention of Connecticut. Hartford: 1902.

Printed Resolutions, Constitutional Convention of Connecticut. Hartford: 1902.

Connecticut Historical Society. *Papers.*

CONSTITUTIONAL

Constitutional History of the United States as seen in the Development of American Law. T. M. Cooley (and others). New York: 1890.

Constitutional Limitations. T. M. Cooley.

The Constitutional Decisions of John Marshall. 2 vols. New York: 1905.

CURTIS

Constitutional History of the United States. 2 vols. G. T. Curtis. New York: 1889.

CONVENTION, 1827

Statement on the Part of The United States of the Case Referred in Pursuance of the Convention of 29th September, 1827, Between the said States and Great Britain, to His Majesty, the King of the Netherlands, For his Decision Thereon. Printed but not published. Washington: Printed at the Office of the United States' Telegraph, 1829. 96 pp.

Appendix to the Two Statements on the Part of the United States, Respecting the Disputed Points of Boundary Between the United States and Great Britain; Referred to His Majesty, the King of the Netherlands, for His Decision Thereon. Written and Printed Evidence Adduced On the Part of the United States. (With map) and Appendixes LXI–LXIX. 438 pp.

First Statement On the Part of Great Britain, According to the Provisions of The Convention Concluded Between Great Britain and the United States, On the 29th September, 1827. For Regulating the Reference to Arbitration of the Disputed Points of Boundary Under the Fifth Article of the Treaty of Ghent. 43 pp.

Second Statement On the Part of Great Britain, According to the Provisions of The Convention Concluded Between Great Britain and the United States, On the 29th September, 1827, for Regulating the Reference To Arbitration of the Disputed Points of Boundary Under the Fifth Article of the Treaty of Ghent. 41 pp. Appendixes, 30 pp.

Decision of the Arbiter, 13 pp. Protest (of the United States) pp. 14–16.

DELAWARE

Our State Constitutions. James Q. Dealey, American Academy of Political and Social Science. Philadelphia, March, 1907. 98 pp.

Colonial Records (1683–1790). 16 vols. Philadelphia: 1852–53.

Debates and Proceedings of the Constitutional Convention of the State of Delaware. 1853. Dover, Del. 318 pp. Index.

Delaware Historical Society. *Papers.* (*See also* Constitutional Pennsylvania.)

DICKINSON

John Dickinson. Political Writings. 2 vols. Wilmington: 1801.

DOYLE

The English Colonies in America. J. A. Doyle. 5 vols. New York: 1882–1906.

FEDERALIST

The Federalist. (Edited by H. C. Lodge; by P. L. Ford; by Henry B. Dawson; by J. C. Hamilton.)

FLORIDA

Constitution and Ordinances Adopted at the Convention [of Florida], January 3–21. 1861. Tallahassee: 1861. 68 pp.

The Constitution [of Florida] as Amended and Ordinances Adopted at Called Session, January 14–27, 1862. 48 pp. n. p. n. d. The Proceedings of the Called Sessions, February 26–March 1, 1861; April 18–27, 1861. 70 pp.

Journal [and Ordinances] of the Convention held January 3–21, 1861. [Florida.] Tallahassee: 1861. 112 pp.

Journal of the Convention, January 14–27, in Called Session. [Florida.] 110 pp. n. p. n. d.

Journal of the Constitutional Convention of Florida [and Constitution Adopted]. Tallahassee: 1865. 34, 22, 167 pp.

Journal of the [Constitutional] Convention [of Florida], January 20–February 25, 1868. Tallahassee: 1868. 134 pp.

Journal of the Proceedings of the Constitutional Convention of the State of Florida. Begun and held at the capitol, at Tallahassee, on Monday, January 20, 1868. Tallahassee: 1868. 134 pp.

Journal of the Proceedings of the Constitutional Convention of the State of Florida. Which convened at the capitol, at Tallahassee, on Tuesday, June 9, 1885. Tallahassee, Fla.: 1885. 631 pp.

FORCE

American Archives. A Documentary History of the North American Colonies. 9 vols. Compiled by Peter Force. Washington: 1837–1853.

FRANKLIN

Benjamin Franklin's Works. Edited by Jared Sparks. 10 vols. Boston: 1836–1850.

Benjamin Franklin's Works. Edited by John Bigelow. 10 vols. New York: 1887–1888.

Benjamin Franklin's Works. Edited by Albert H. Smythe. 10 vols. New York. 1905–1907.

GALLATIN

Albert Gallatin. Writings. Edited by Henry Adams. 3 vols. Philadelphia: 1879.

GEORGIA

Digest of the Laws of the State of Georgia. H. Marbury, W. H. Crawford. Savannah: 1802.

Journal of the Convention to Reduce and Equalize the Representation of the General Assembly of the State of Georgia. Assembled in Milledgeville, on the 6th Day of May, eighteen hundred and thirty-nine. Published by authority. Milledgeville: 1839. 74 pp.

Journal of the State Convention. Held in Milledgeville in December, 1850. Milledgeville: 1850. 34 pp.

Journal of the Public and Secret Proceedings of the Convention of the People of Georgia. Held in Milledgeville and Savannah in 1861. Together with the ordinances adopted. Published by order of the convention. Milledgeville, Ga.: 1861. 416 pp.

Journal of the Proceedings of the Convention of the People of Georgia. Held in Milledgeville in October and November, 1865. Together with the ordinances and resolutions adopted. Published by order of the convention. Milledgeville, Ga.: 1865. 269 pp.

Journal of the Proceedings of the Constitutional Convention of the People of Georgia. Held in the city of Atlanta in the months of December, 1867, and January, February, and March, 1868. And ordinances and resolutions adopted. Published by order of the convention. Augusta, Ga.: 1868. 636 pp.

Journal of the Constitutional Convention of the People of Georgia. Held in city of Atlanta in the months of July and August, 1877. Atlanta, Ga.: 1877. 701 pp.

A Stenographic Report of the Proceedings of the Constitutional Convention. Held in Atlanta, Georgia, 1877. Giving debates in full on all questions before the convention. Reported by Samuel W. Small for The Atlanta Constitution. Atlanta, Ga.: 1877. 502 pp.

Georgia Historical Society. *Collections.*

GERARD

The Peace of Utrecht. J. W. Gerard. New York: 1885.

GOODNOW

Comparative Administrative Law. 2 vols. F. J. Goodnow. New York: 1893.

GRAHAME

The History of the Rise and Progress of the United States of North America. Till the British Revolution in 1688. 2 vols. James Grahame. London: 1827.

GREENE

Colonial Commonwealths. E. B. Greene. New York: 1904.

HAMILTON

Alexander Hamilton. Works. Edited by Henry Cabot Lodge. 12 vols. New York: 1904.

The Colonization of the South. P. J. Hamilton. Philadelphia: 1904.

HAZARD

Historical Collections: Consisting of State Papers and Other Documents. Ebenezer Hazard. 2 vols. Philadelphia: 1792–1794.

HILDRETH

The History of the United States. Richard Hildreth. 6 vols. New York: 1851–1856. [Contains brief accounts of State constitutions.]

HOUGH

American Constitutions: Comprising the Constitution of each State in the Union, and of the United States, with the Declaration of Independence and Articles of Confederation. Each accompanied by a historical introduction and notes, together with a classified analysis of the constitutions. By Franklin B. Hough. 2 vols. Albany: 1871.

HOWARD

Local Constitutional History. G. E. Howard.

HOPKINS (UNIVERSITY)

The Johns Hopkins "Studies" in History and Political Science. Johns Hopkins University.

HINSDALE

The Old Northwest: With a View of the Thirteen Colonies as Constituted by the Royal Charters. B. A. Hinsdale. New York: 1891.

HISTORICAL ASSOCIATION

Historical Societies. For complete list see Annual Report, American Historical Association, 1905, vol. 2.

HORACK

Constitutional Amendments in the Commonwealth of Iowa. Frank E. Horack. Iowa City, Iowa: 1899. 8 vo. 33 pp. [Reprinted from The Iowa Historical Record.]

ILLINOIS

Journal of the Convention Assembled at Springfield, June 7, 1847, in pursuance of an act of the General Assembly of the State of Illinois, entitled "An act to provide for the call of a convention," approved February 20, 1847, for the Purpose of Altering, Amending, or Revising the Constitution of the State of Illinois. Published by authority of the convention. Springfield: 1847. 592 pp.

Journal of the Constitutional Convention of the State of Illinois. Convened at Springfield, January 7, 1862. Springfield: 1862. 1,131 pp. Index.

Debates and Proceedings of the Constitutional Convention of the State of Illinois. Convened at the city of Springfield, Tuesday, December 13, 1869. 2 vols. 4to. Springfield: 1870. 1,076, 819 pp. Index.

Journal of the Constitutional Convention of the State of Illinois. Convened at Springfield, December 13, 1869. Springfield: 1870. 1,022 pp. Index.

Chicago Historical Society. *Collections.*

INDIANA

Journal of the Constitutional Convention of Indiana [at Corydon], June 2, 1816. Louisville: 1816. 69 pp.

Report of the Debates and Proceedings of the Convention for the Revision of the Constitution of the State of Indiana, 1850. Indianapolis, Ind: 1850. 2 vols. 1,008, 1,099 pp.

IOWA

Journal of the [Constitutional] Convention of Iowa. May 4–19, 1846. Iowa City: 1846. 120 pp.

Fragments of the Debates of the Iowa Constitutional Conventions of 1844 and 1846; along with press comments and other materials on the constitutions of 1844 and 1846. Compiled and edited by Benjamin F. Shambaugh, A. M., Ph. D. Iowa City, Iowa: 1900. 415 pp.

The Debates of the Constitutional Convention of the State of Iowa. Assembled at Iowa City, Monday, January 19, 1857. 2 vols. Davenport: 1857. 644, 422 pp. Index.

Journal of the Constitutional Convention of the State of Iowa. In session at Iowa City from the nineteenth day of January, A. D. one thousand eight hundred and fifty-seven, to the fifth day of March of the same year, inclusive. Muscatine: 1857. 389 pp. Index.

State Historical Society of Iowa. *Publications.*

JAMES

The Colonization of New England. B. B. James. Philadelphia: 1904.

JAMESON

A Treatise on Constitutional Conventions; their History, Powers, and Modes of Proceeding. By John Alexander Jameson. 4th ed. Chicago: 1887.

William Usselinx, J. Franklin Jameson.

JAY

John Jay. Correspondence and Public Papers. Edited by H. P. Johnston. 4 vols. New York: 1890–1893.

JEFFERSON

Thomas Jefferson. Writings. Edited by H. A. Washington. 9 vols. Washington: 1853–54.

Thomas Jefferson. Edited by P. L. Ford. 12 vols. New York: 1892–1896.

JENNESS

Transcripts of Original Documents in the English Archives Relating to New Hampshire. John S. Jenness. New York: 1876. (Privately printed.)

JONES

The Colonization of the Middle States and Maryland. F. R. Jones. Philadelphia: 1904.

KANSAS

Report of the Committee on Territories, to whom were referred the Constitution adopted by the people of Kansas on the 4th day of October, A. D. 1859, and the Memorial of the convention praying Congress to Admit Kansas as a State into the aforesaid Confederacy. (36th Cong., 1st sess., H. report 255. 55 pp.)

Proceedings and Debates of the Constitutional Convention of Kansas [Territory], Wyandot, July 5, 1859. Wyandot: 1859. (Constitution and Ordinances.) 4+46+439+16 pp.

Kansas State Historical Society. *Transactions.*

KELLOGG

The American Colonial Charter. Louise Phelps Kellogg. Report of the American Historical Association, 1903. vol. 1. pp. 187–341.

KENTUCKY

Report of the Debates and Proceedings of the Convention for the Revision of the Constitution of the State of Kentucky, 1849. Frankfort, Ky.: 1849. 1,168 pp.

Journal and Proceedings of the Convention of the State of Kentucky. Frankfort, Ky.: 1849. 531 pp.

Official Report of the Proceedings and Debates in the Convention Assembled at Frankfort on the Eighth day of September, 1890, to Adopt, Amend, or Change the Constitution of the State of Kentucky. Frankfort, Ky.: 1890. 4 vols. 6,480 pp.

LINCOLN

The Constitutional History of New York from the beginning of the Colonial Period to the year 1905; showing the origin, development, and judicial construction of the Constitution. Charles Z. Lincoln. 5 vols. Rochester: 1906.

LOUISIANA

Journal de la Convention de la Louisiane. Nouvelle-Orléans: 1845. 367 pp. (Constitution. 1845.)

Rapports Officiels des Débats de la Convention de la Louisiane. Imprimeur de la Convention. Nlle.-Orléans. 1845. 460 pp. (Constitution. 1845. 11 pp.)

Proceedings and Debates of the Convention of Louisiana, which Assembled at the City of New Orleans, January 14, 1844. New Orleans: 1845. 960 pp. Index.

Journal of the Convention to Form a New Constitution for the State of Louisiana. Official. New Orleans: 1852. 109 pp.

Official Journal of the Proceedings of the Convention of the State of Louisiana. By authority. New Orleans: 1861. 330 pp.

Journal of the Senate of the State of Louisiana. New Orleans: 1864. 197 pp.

Journal of the House of Representatives of the State of Louisiana. New Orleans: 1864. 226 pp.

Debates in the Convention for the Revision and Amendment of the Constitution of the State of Louisiana. Assembled at Liberty Hall, New Orleans, April 6, 1864. New Orleans: 1864. 643 pp.

Official Journal of the Proceedings of the Convention for the Revision and Amendment of the Constitution of the State of Louisiana. By authority. New Orleans: 1864. 184 pp. Index.

Journal Officiel des Travaux de la Convention réunie pour reviser et amender la Constitution de l'Etat de la Louisiane. Par autorité. Nouvelle Orléans: 1864. 187 pp. Index.

Official Journal of the Proceedings of the Convention for Framing a Constitution for the State of Louisiana. By authority. New Orleans: 1867–1868. 315 pp.

Official Journal of the Proceedings of the Constitutional Convention of the State of Louisiana. Held in New Orleans, Monday, April 21, 1879. By authority. New Orleans: 1879. 337 pp. Appendix. 156 pp.

Official Journal of the Proceedings of the Constitutional Convention of the State of Louisiana. Held in New Orleans, Tuesday, February 8, 1898. And calendar. By authority. New Orleans: 1898. 385 pp. 77 pp.

MADISON

James Madison. Letters and Other Writings. Edited by H. D. Gilpin. 3 vols. Washington: 1840.

James Madison. Letters and Writings. 4 vols. Philadelphia: 1865.

Journal of the Federal Convention Kept by James Madison. Edited by E. H. Scott. Chicago: 1893. 805 pp.

McLAUGHLIN

The Federal Constitution. A. C. McLaughlin. New York: 1905. 355 pp.

McMASTER

A History of the People of the United States. John Bach McMaster. 6 vols. New York: 1883–. [Contains some account of new State constitutions.]

MAGAZINES

Magazine of American History. New York: 1877–1894.
Magazine of Western History. 14 vols. The National Magazine.
The American Historical Review.

MAINE

Journal of the Constitutional Convention of the District of Maine; with the articles of separation and Governor Brook's proclamation prefixed. 1819–1820. August: 1856. 112 pp.

The Debates and Journal of the Constitutional Convention of the State of Maine, 1819–1820; and amendments subsequently made to the constitution. Augusta: 1894. 412, 135, 120 pp.

Journal of the Constitutional Convention of the District of Maine; with the articles of separation and Governor Brook's proclamation prefixed. 1819–1820. Augusta: 1894. 135 pp.

The Debates, Resolutions, and other Proceedings of the Convention of Delegates Assembled at Portland on the 11th, and Continued until the 29th day of October, 1819, for the Purpose of Forming a Constitution for the State of Maine; to which is prefixed the constitution. Taken in Convention. Portland: 1820. 300 pp.

The Documentary History of Maine.
Maine Historical Society. *Collections.*

MARTENS AND CUSSY

Traités et Conventions Diplomatiques. Charles de Martens et Ferdinand de Cussy. 7 vols. Leipzig: 1846–1857.

MARYLAND

Laws of Maryland at Large [1637–1763]. Thomas Bacon. Annapolis: 1765.

Archives of Maryland. William Hand Browne, editor. 13 vols. Baltimore: 1883–1894.

Maryland as a Proprietary Province. Newton D. Mereness. New York: 1903.

Proceedings of the Conventions of the Province of Maryland, Held at Annapolis in 1774, 1775, 1776. Baltimore: 1836. 378 pp.

Proceedings of the Maryland State Convention, to Frame a New Constitution, Commenced at Annapolis, November 4, 1850. Annapolis: 1850. 895 pp. Vote; List of Delegates. 6 pp. Constitution. 36 pp.

Debates and Proceedings of the Maryland Reform Convention to Revise the State Constitution; to which are Prefixed the Bill of Rights and Constitution as Adopted. Published by order of the convention. 2 vols. Annapolis: 1851. 890 pp.

The Constitution of the State of Maryland. Reported and adopted by the convention of delegates assembled at the city of Annapolis, November 4, 1850, and submitted to and ratified by the people on the first Wednesday in June, 1851; with marginal notes and references to acts of the general assembly and decisions of the court of appeals, and an appendix and index. By Edward Otis Hinkley, esq., of the Baltimore Bar. Baltimore: 1855. 108 pp.

The Debates of the Constitutional Convention of the State of Maryland. Assembled at the city of Annapolis, Wednesday, April 27, 1864. 3 vols. Annapolis: MDCCCLXIV.

The Constitution of the State of Maryland. Reported and adopted by the convention of delegates assembled at the city of Annapolis, April 27, 1864, and submitted to and ratified by the people on the 12th and 13th days of October, 1864; with marginal notes and references to acts of the general assembly and decisions of the court of appeals, and an appendix and index. By Edward Otis Hinkley, esq., of the Baltimore Bar. Annapolis: 1865. 102 pp.

Maryland Historical Society. *Fund Publications.*

MASSACHUSETTS

A Collection of Original Papers Relative to the History of the Colony of Massachusetts Bay. Thomas Hutchinson. Boston: 1769.

The Charters and General Laws of the Colony and Province of Massachusetts Bay. Nathan Dane, William Prescott, Joseph Story. Boston: 1814.

Debates, Resolutions, and other proceedings of the Convention of the Commonwealth of Massachusetts. Convened at Boston, on the 9th of January, 1788, and continued until the 7th of February following, for the purpose of assenting to and ratifying the constitution recommended by the grand Federal convention; together with the yeas and nays on the division of the grand question, to which the Federal Constitution is prefixed. Boston: MDCCLXXVIII. 219 pp.

Journal of Debates and Proceedings in the Convention of Delegates Chosen to Revise the Constitution of Massachusetts. Begun and Holden at Boston, November 15, 1820, and Continued by Adjournment to January 9, 1821. Reported for the Boston Daily Advertiser. Boston: 1821. 292 pp.

The Same. New edition, revised and corrected. Boston: 1853. 677 pp.

Journal of the Convention for Framing a Constitution of Government for the State of Massachusetts Bay. From the commencement of their first session, September 1, 1779, to the close of their last session, June 16, 1780; including a list of the members, with an appendix containing (1) The resolve for ascertaining the sense of the people on the subject of a new constitution; (2) The form of government originally reported by the general committee of the convention; (3) The address to the people; (4) the constitution as finally agreed upon by the convention and ratified by the people, with the amendments since adopted; (5) The rejected constitution of 1778. Published by order of the legislature. Boston: 1832. 264 pp.

The Journals of the Provincial Congress of Massachusetts in 1774 and 1775 and of the Committee of Safety. With an appendix containing the Proceedings of the county conventions; Narratives of the events of the nineteenth of April, 1775; Papers relating to Ticonderoga and Crown Point, and other documents, illustrative of the early history of the American Revolution. Published agreeably to a resolve passed March 10, 1837, under the supervision of William Lincoln. Boston: 1838. 778 pp.

Journal of the Constitutional Convention of the Commonwealth of Massachusetts. Begun and held in Boston on the fourth day of May, 1853. Printed by order of the Convention. Boston: 1853. 560 pp.

Discussion on the Constitution proposed to the People of Massachusetts by the Convention of 1853. Boston: 1854. 306 pp.

Official Report of the Debates and Proceedings in the State Convention Assembled May 4, 1853, to Revise and Amend the Constitution of the Commonwealth of Massachusetts. Boston: 1853. 3 vols.

Official Report of the Debates and Proceedings in the State Convention Assembled May 4, 1853, to Revise and Amend the Constitution of the Commonwealth of Massachusetts. Boston: 1853. 2 vols. 4°. 644, 724 pp.

Records of the Governor and Company of the Massachusetts Bay in New England. Nathaniel B. Shurtleff, Editor. 5 vols. Boston: 1853–1854.

Debates and Proceedings in the Convention of the Commonwealth of Massachusetts. Held in the year 1788, and which finally ratified the Constitution of the United States. Printed by authority of resolves of the legislature, 1856. Boston: 1856. 442 pp.

History of Plymouth Plantation. William Bradford. Boston: 1856. [Charles Deane's edition.]

Massachusets Historical Society. *Collections.*

MICHIGAN

Journal of the Proceedings of the Convention to Form a Constitution for the State of Michigan. Begun and held in the city of Detroit on Monday, the 11th day of May, A. D. 1835. Printed by order of the convention. Detroit: 1835. 224 pp. Index.

Journal of the Convention (of Michigan), September 26–31, 1836, to Consider the Admission of Michigan into the Union. Pontiac: 1836. 36 pp.

Journal of the Convention (of Michigan), December 14, 15, 1836, to Give Assent Required by Act of Congress, Previous to Admission. Ann Arbor: 1836. 20 pp.

Report of the Proceedings and Debates in the Convention to Revise the Constitution of the State of Michigan, 1850. Lansing: 1850. 937 pp.

Journal of the Constitutional Convention of the State of Michigan, 1850. Lansing: 1850. 581 pp. Appendix.

Journal of Convention (of Michigan), June 3–August 15, 1850. Lansing: 1850. 581 pp. (With documents.)

The Debates and Proceedings of the Constitutional Convention of the State of Michigan. Convened at the city of Lansing, Wednesday, May 15, 1867. Lansing: 1867. 2 vols. 4°. 664, 1070 pp.

Journal of the Constitutional Convention of the State of Michigan, 1867. By authority. Lansing: 1867. 943 pp.

Journal of the Constitutional Commission of Michigan. By authority. Lansing: 1873. 243 pp. Appendix.

Journal of the House of Representatives of the State of Michigan. Extra session, 1874. Lansing: 1874. 320 pp.

Journal of the Senate of the State of Michigan. Extra session, 1874. Lansing: 1874. 271 pp.

Pioneer Society of the State of Michigan. *Reports* and "*Pioneer collections.*"

MINNESOTA

Journal of the Constitutional Convention of the Territory of Minnesota. Begun and held in the city of Saint Paul, capital of said Territory, on Monday, the thirteenth day of July, one thousand eight hundred and fifty-seven. St. Paul: 1857. 209 pp.

Debates and Proceedings of the Constitutional Convention for the Territory of Minnesota, to Form a State Constitution Preparatory to Its Admission into the Union as a State. T. F. Andrews, official reporter to the convention. St. Paul: George W. Moore, Printer, Minnesotian Office, 1858. 596 pp. Appendix.

The Debates and Proceedings of the Minnesota Constitutional Convention; including the Organic Act of the Territory; with the enabling act of Congress, the act of the Territorial legislature relative to the convention, and the vote of the people on the constitution. Reported officially by Francis H. Smith. St. Paul: Earl S. Goodrich, Territorial printer, Pioneer and Democrat Office, 1857. 685 pp.

Minnesota Historical Society. *Collections.*

MISSISSIPPI

Journal of the (Constitutional) Convention of the Western Part of Mississippi Territory. Held in Washington July 7–August 15, 1817. Port Gibson (reprint): 1831. 108 pp.

Journal of the Constitutional Convention of Mississippi, September 10 to October 26, 1832. Jackson: 1832. 304 pp.

Journal of the Convention of the State of Mississippi, and the Act Calling the Same; with the Constitution of the United States, and Washington's Fairwell Address. Published by order of the convention. Jackson: 1851. 79 pp.

Journal of the State Convention and Ordinances and Resolutions Adopted in January, 1861; with an appendix. Published by order of the convention. Jackson, Miss.: 1861. 256 pp.

Journal of the State Convention [Mississippi] and Ordinances and Resolutions Adopted in March, 1861. Published by order of the convention. Jackson: 1861. 104 pp.

Journal of the Proceedings and Debates in the Constitutional Convention of the State of Mississippi. August, 1865. By order of the convention. Jackson, Miss.: 1865. 296 pp. Appendix.

Journal of the Proceedings of the Constitutional Convention of Mississippi. Begun at the city of Jackson on August 12, 1890, and concluded November 1, 1890. Printed by authority. Jackson: 1890. 757 pp.

MISSOURI

Journal of the Constitutional Convention of Missouri (Territory), St. Louis, June 12–July 19, 1820. St. Louis: 1820. 48 pp.

Journal of Convention of State of Missouri; assembled at the city of Jefferson, on Monday the seventeenth day of November, in the year of our Lord one thousand eight hundred and forty-five, pursuant to an act of the general assembly of the State of Missouri, entitled "An act to provide for the call of a convention," approved February 27, 1843. Printed by order of the convention. City

of Jefferson: 1845. 366 pp. Appendix. 64 pp. Index. Appendix. 24, 32 pp. Prepared by the constitution of 1845. 26 pp.

Journal and Proceedings of the Missouri State Convention. Held at Jefferson City and St. Louis, March, 1861. St. Louis: 1861. 269 pp.

Journal of the Missouri State Convention. Held at the city of St. Louis, October, 1861. St. Louis: 1861. 111 pp.

Journal of the Missouri State Convention. Held at Jefferson City, July, 1861. St. Louis: 1861. 136 pp.

Journal [and Proceedings] of the Missouri State Convention. Held in Jefferson City, June, 1862. S. Louis: 1862. 253 pp.

Journal of the Missouri State Convention. Held in Jefferson City, June, 1863. St. Louis: 1863. 380 pp.

Journal of the Missouri State Convention. Held at the city of St. Louis, January 6–April 10, 1865. St. Louis: 1865. 287 pp.

MORAN

The Formation and Development of the Constitution, T. F. Moran, Philadelphia: 1904.

MOREY

The First State Constitutions. By William C. Morey. Philadelphia: American Academy of Political and Social Science. Publication No. 98.

MOURT

H. M. Dexter's notes (edition) to Mourt's *Relation.* (Plymouth Colony.)

NEW HAMPSHIRE

Records of New Hampshire. 17 vols.

Portsmouth Records [Frank Warren Hackett]. 1645–1656. Portsmouth: 1886.

State Papers, New Hampshire [Hon. A. S. Batchellor, Editor]. Vol. XXIX. [Charters.] Concord: 1896.

Laws of New Hampshire. Vol. I. Province Period, 1679–1702. Manchester, N. H.: 1904.

The History of the Convention for Ratifying the Federal Constitution (in New Hampshire), June 18–21, 1788. J. B. Walker. Boston: 1888. 128 pp.

Proceedings of the Bar Association of the State of New Hampshire, Concord, N. H., 1906. The Constitutional History of New Hampshire, 1775–1792. W. F. Dodd. pp. 379–400.

Proceedings and Debates of the Convention (of New Hampshire), November 6, 1850–January 3, 1851, as reported for the *Daily Patriot.* Concord: November 7, 1850–January 4, 1851.

Journal of the Convention Which Assembled in Concord to Revise the Constitution of New Hampshire, 1791–1792. Edited by Nathaniel Bouton, D. D. Concord: 1876. 198 pp.

New Hampshire Historical Society. *Collections.*

Journal of the Constitutional Convention of the State of New Hampshire, December, 1876. Concord: 1877. 280 pp.

Journal of the Constitutional Convention of the State of New Hampshire, January, 1889. Manchester: 1889. 308 pp.

State of New Hampshire, Convention to Revise the Constitution, December, 1902. Concord, N. H.: 1903. 949 pp.

NEW JERSEY

The Grants, Concessions, and Original Constitutions of the Province of New Jersey (1664–1682). Leaming and Spicer, Philadelphia: 1758.

The Model of the Government of the Province of East New Jersey. George Scot, Edinburgh: 1685.

Archives of the State of New Jersey; Documents relating to the colonial history (1631–1775). 18 vols. Trenton: 1880–1895.

Extracts from the Journal of Proceedings of the Provincial Congress of New Jersey. Held at Trenton in the months of May, June, and August, 1775. Published by order. Burlington, MDCCLXXV, Woodbury, N. J.: 1835. 241 pp.

Journal of the Votes and Proceedings of the Convention of New Jersey. Begun at Burlington the tenth of June, 1776, and thence continued by adjournment at Trenton and New Brunswick, to the twenty-first of August following; to which is annexed sundry ordinances and the constitution. Published by order. Burlington, MDCCLXXVI. Trenton: 1831. 100 pp.

Eumenes; being a collection of papers written for the purpose of exhibiting some of the more prominent Errors and Omissions of the constitution of New Jersey, as established on the second day of July, one thousand seven hundred and seventy-six, and to prove the necessity of calling a convention for revision and amendment. Trenton: 1799. 149 pp. Postscript. Table of contents.

Journal of the Proceedings of the Convention to form a Constitution for the Government of the State of New Jersey. Begun at Trenton on the fourteenth day of May, A. D. 1844, and continued to the twenty-ninth day of June, A. D. 1844. Trenton: 1844. 293 pp.

New Jersey Historical Society. *Proceedings.*

NEW PLYMOUTH

Records of the Colony of New Plymouth in New England, 1620–1692. 12 vols. Boston: 1855–1861.

The Compact with the Charter and Laws of New Plymouth. William Brigham. Boston: 1836.

NEVADA

Official Report of the Debates and Proceedings in the Constitutional Convention of the State of Nevada. Assembled at Carson City, July 4, 1864, to form a constitution and State government. San Francisco: 1866. 943 pp.

NEWSPAPERS (FILES OF)

Newspaper Files (Proceedings and Debates of Constitutional Conventions)—

(Alabama.) The Age Herald, 1901. Montgomery Advertiser, 1901.

(Delaware.) Every Evening, Wilmington, 1896–97. Morning News, Wilmington, 1896–97.

(Idaho.) Daily Statesman, 1889.

(Kentucky.) Louisville Courier-Journal, 1890–91.

(Louisiana.) Daily Picayune, 1898.

(Montana.) Helena Journal, 1889. Helena Independent, 1889. Helena Daily Herald, 1889.

(New Hampshire.) The Manchester Union, 1902. Concord Evening Monitor, 1902.

(North Dakota.) Sioux Falls Daily Press, 1889. Bismarck Daily Tribune, 1889. Sioux City Journal, 1889.

(South Carolina.) News and Courier, Charleston, 1895–96.

(South Dakota.) *See* North Dakota.

(Utah.) Salt Lake City Tribune, 1895.

(Virginia.) Richmond Times, 1901–2.

(Washington.) Morning Oregonian, Portland, Oreg., 1889.

NEW NETHERLAND

Laws and Ordinances of New Netherland (1638–1674). E. B. O'Callaghan, Albany: 1868.

NEW YORK

The Documentary History of the State of New York. E. B. O'Callaghan, 15 vols. Albany: 1856–1887.

Journals of the Provincial Congress, Provincial Convention, etc., of the State of New York (1775–1777). 2 vols. Albany: 1842.

Journal of the Convention of the State of New York. Begun and held at the city of Albany on the 13th day of October, 1801. Albany: MDCCCI. 42 pp.

Journal of the Convention of the State of New York. Begun and held at the capitol, in the city of Albany, on the twenty-eighth day of August, 1821. Albany: 1821. (Contine and Leake, printers to the convention.) 564 pp. Index.

Report of the Debates and Proceedings of the Convention of the State of New York. Held at the capitol, in the city of Albany, on the 28th day of August,

1821. By L. H. Clarke. New York: Printed by J. Seymour, 49 John street, Nov., 1821. 367 pp.

Reports of the Proceedings and Debates of the Convention of 1821, assembled for the purpose of amending the Constitution of the State of New York. Albany: 1821. (By Nathaniel H. Carter and William L. Stone, reporters, and Marcus T. C. Gould, stenographer.) 703 pp.

Manual for the Use of the Convention to Revise the Constitution of the State of New York. Convened at Albany, June 1, 1846. Prepared pursuant to order of the convention, by the secretaries, under supervision of a select committee. New York: 1846. 371 pp.

Journal of the Convention of the State of New York. Begun and held at the capitol, in the city of Albany, on the first day of June, 1846. Albany: 1846. 1,648 pp.

Report of the Debates and Proceedings of the Convention for the Revision of the Constitution of the State of New York, 1846. Reported by William G. Bishop and William H. Attree. Albany: 1846. (Printed at the office of the Evening Star.) 1,143 pp.

Debates and Proceedings in the New York State Convention for the Revision of the Constitution. By S. Croswell and R Sutton, reporters for the Argus. Printed at the office of the Albany Argus, 1846. 948 pp.

Constitution of the State of New York. Adopted in 1846. With a comparative arrangement of the constitutional provisions of other States, classified by their subjects. Prepared under the direction of a committee of the New York Constitutional Convention of 1867. By Franklin B. Hough. Albany, N. Y.: 1867. 4°. 239 pp.

Documents of the Convention of the State of New York, 1867–68. 5 vols. Albany: 1868.

Journal of the Convention of the State of New York. Begun and held at the capitol, in the city of Albany, on the 4th day of June, 1867. Albany: 1867. 1,547 pp.

Revision Documents of the Constitutional Convention of the State of New York, 1867–1868. Albany N. Y.: 1868. 4°.

Long Island Historical Society. *Publications.*

New York Historical Society. *Collections.*

Albany Institute. *Transactions.*

The Convention Manual for the Sixth New York State Constitutional Convention, 1894. American constitutions, comprising the Declaration of Independence, the Articles of Confederation, the Constitution of the United States, and the State constitutions. Prepared in pursuance of chapter 8 of laws of 1893, and chapter 228 of laws of 1894, under the direction of John Palmer, secretary of state; James A. Roberts, comptroller; Theo. E. Hancock, attorney-general, by George A. Glynn, Syracuse, compiler. 2 vols. Albany: 1894.

Development of Constitutional Law in New York, and the Constitutional Convention of 1894. H. W. Hill. Buffalo: 1896.

NORTH CAROLINA

The Colonial Records of North Carolina. (1662–1776.) 10 vols. Raleigh: 1886–1890.

Laws of North Carolina. F. X. Martin. 1715–1790. New Bern: 1804.

North Carolina: A Study in English Colonial Government. C. L. Raper, New York: 1906.

Proceeding and Debates of the Convention held July 21–August 4, 1788, to Ratify the Constitution of the United States. (North Carolina.) Edenton: 1789. 280 pp.

Proceedings and Debates of the Convention of North Carolina called to Amend the Constitution of the State. Raleigh, June 4, 1835. Raleigh: 1836. 424 pp. Index.

History of North Carolina. 2 vols. Francis Lester Hawks. Fayetteville: 1857–58.

Journal of the Convention of North Carolina, May 20, 1861. Raleigh: 1862. 193 pp.

Journal of Second Session, November and December, 1861. Raleigh: 1862. 86 pp.

Journal of Third Session, January and February, 1862. Raleigh: 1862. 119 pp.

Journal of Fourth Session, April and May, 1862. Raleigh: 1862. 109 pp. Index.

Journal of the Convention of North Carolina, Session of 1865. Raleigh: 1865. 94 pp. Index.
Journal of the Convention of North Carolina, Adjourned Session, 1866. Raleigh: 1866. 192 pp. Index.
Convention Documents, Session of 1865. Raleigh: 1865. With constitution and ordinances.
Journal of the Constitutional Convention of North Carolina, 1868. Raleigh: 1868. 488 pp. Index.
Constitution, Ordinances, Resolutions of Same. Raleigh: 1868. 129 pp. Index.
Journal of the [Constitutional] Convention [of North Carolina], January 14–March 17, 1868. Raleigh: 1868. 488 pp.
Journal of the [Constitutional] Convention, September 6–October 11, 1875. Raleigh: 1875. 278+20 pp.

NORTH DAKOTA

Journal of the [Constitutional] Convention [of North Dakota], July 4–August 17, 1889, with enabling act of Congress and proceedings of the joint high commission for dividing Territorial property. Bismarck: 1889. 400+16+32+7 pp.

OHIO

Journal of the Convention of the Territory of the United States Northwest of the Ohio. Begun and held at Chillicothe, on Monday the first day of November, 1802, and of the Independence of the United States the twenty-seventh. Published by authority. Columbus: (Ohio) 1827. 42 pp.
Reprint of same in Annual Report of the Secretary of State to the Governor of the State of Ohio, 1876. Columbus: 1877. pp. 35–74.
Report of the Debates and Proceedings of the Convention for the Revision of the Constitution of the State of Ohio, 1850–51. J. V. Smith, official reporter to the convention. Columbus: 1851. 2 vols. 751, 897 pp.
Official Report of the Proceedings and Debates of the Third Constitutional Convention of Ohio, Assembled in the City of Columbus, on Tuesday, May 13, 1873. Cleveland: 1873. (Four volumes; 2d vol. in 3 parts.)
Ohio Historical and Archaeological Society. *Quarterly.*

OREGON

Published by Authority. Journal of the Constitutional Convention of the State of Oregon. Held at Salem, commencing August 17, 1857; together with the Constitution adopted by the people, November 9, 1857. Salem, Oregon: 1882. 130 pp.

OSGOOD

The American Colonies in the Seventeenth Century. 2 vols. Herbert L. Osgood. New York: 1906.

PENNSYLVANIA

The Charters and Acts of Assembly of the Province of Pennsylvania [1744–1759]. 2 vols. Philadelphia: 1762.
Pennsylvania Colonial Records [1683–1790]. 16 vols. Philadelphia: 1852–53.
Pennsylvania Archives [1664–1790]. Samuel Hazard. 12 vols. Philadelphia: 1852–1856. Second Series. 19 vols. Edited by J. B. Linn and W. H. Egle. Harrisburg: 1874–1890.
Charter to William Penn, and Laws of the Province of Pennsylvania. Passed between the years 1682 and 1700. Preceded by Duke of York's laws in force from the year 1682; with an appendix containing laws relating to the organization of the provincial courts and historical matter. Published under the direction of John Blair Linn, secretary of the Commonwealth. Compiled and edited by Staughton George, Benjamin M. Nead, Thomas McCamant. Harrisburg: 1879. 614 pp.
The Proceedings Relative to Calling the Conventions of 1776 and 1790. The minutes of the convention that formed the present constitution of Pennsylvania, together with the charter to William Penn, the constitutions of 1776 and 1790,

and a view of the proceedings of the convention of 1776, and the council of censors. Harrisburg: 1825. 384 pp. Index.

Minutes of the Convention of the Commonwealth of Pennsylvania, which commenced at Philadelphia, on Tuesday, the twenty-fourth day of November, in the year of our Lord one thousand seven hundred and eighty-nine, for the purpose of reviewing, and if they see occasion, altering and amending the constitution of the State. Philadelphia; MDCCLXXXIX. 146 pp. 4°.

Minutes of the Grand Committee of the Whole Convention of the Commonwealth of Pennsylvania which commenced at Philadelphia on Tuesday, the twenty-fourth day of November, in the year of our Lord one thousand seven hundred and eighty-nine, for the purpose of reviewing and, if they see occasion, altering and amending the constitution of this State. Philadelphia: Printed by Zachariah Paulson, jun., in Fourth street, between Market street and Arch street. (n. d.) 4°. 101 pp.

Minutes of the Second Session of the Convention of the Commonwealth of Pennsylvania, which commenced at Philadelphia on Monday, the ninth day of August, in the year of our Lord one thousand seven hundred and ninety. (n. d.) 4°. 147–222 pp.

Pennsylvania and the Federal Constitution, 1787–1788. Edited by John Bach McMaster and Frederick D. Stone. The Historical Society of Pennsylvania: 1888. 803 pp.

Proceedings and Debates of the Convention of the Commonwealth of Pennsylvania to Propose Amendments to the Constitution. Commenced and held at Harrisburg on the second day of May, 1837. Reported by John Agg, stenographer to the convention, assisted by Messrs. Kingman, Drake, and M'Kinley. Harrisburg: 1837. 14 vols.

Journal of the Convention of the State of Pennsylvania to Propose Amendments to the Constitution. Commenced and held at the State capitol, in Harrisburg, on the second day of May, 1837. Harrisburg: 1837. 852 pp.

Pennsylvania Constitutional Convention, 1872–1873: Its Members and Officers and the Result of their Labors. By A. D. Harlan. Philadelphia: 1873. 175 pp.

Debates of the Convention to Amend the Constitution of Pennsylvania. Convened at Harrisburg, November 12, 1872; adjourned November 27, to meet at Philadelphia, January 7, 1873. Harrisburg: 1873. 9 vols. Index.

Journal of the Convention to Amend the Constitution of Pennsylvania. Convened at Harrisburg, November 12, 1872; adjourned November 27, to meet at Philadelphia, January 7, 1873. In two parts. Harrisburg: 1873. 1,424 pp. Index.

The Power of the Constitutional Convention, containing the pleadings, briefs, arguments of counsel, and opinion of the judges of the supreme court of Pennsylvania in the cases of Wells and Others *vs.* The Election Commissioners. The arguments are published from the stenographic report of R. A. West. Philadelphia: 1873. 206 pp.

An Examination of the Constitution of Pennsylvania, exhibiting the derivation and history of its several provisions, with observations and occasional notes thereon, references to judicial and other opinions upon their construction and application, to statutes for their enforcement, and to parallel provisions in the constitutions of other American States. By Charles R. Buckalew. Philadelphia: 1883. 349 pp.

Report of the Commission to Revise the Constitution of Pennsylvania. Made to the legislature January 29, 1875. Harrisburg: 1875. 23 pp.

Pennsylvania Historical Society. *Collections and Publications.*

PERRY

Historical Collections relating to the American Colonial Church. William Stevens Perry. 5 vols. Hartford: 1870–1878.

PRESTON

Documents Illustrative of American History. H. W. Preston. New York: 1886.

PRINCE SOCIETY

Prince Society. *Publications.*

RHODE ISLAND

Records of the Colony of Rhode Island and Providence Plantation in New England. 10 vols. Providence: 1856–1865. (To be used with caution.)

Interference of the Executive in the Affairs of Rhode Island. (28th Cong., 1st sess. H. Rept. No. 546. 1,075 pp.)

Journal of the Convention Assembled to Frame a Constitution for the State of Rhode Island, at Newport, Sept. 12, 1842. Printed by order of the house of representatives, at its January session, 1859. Providence: 1859. 69 pp.

Rhode Island Historical Society. *Collections, Proceedings,* and *Publications.*

SAINSBURY

Calendar of (British) State Papers. Colonial Series (1574–1676). 9 vols. W. N. Sainsbury. London: 1860–1893.

Scribner's Statistical Atlas of the United tSates. New York: 1885.

SEWARD

William H. Seward. Works. Edited by G. E. Baker. 5 vols. New York: 1853–54.

STEVENS

Sources of the Constitution of the United States. Considered in relation to colonial and English history. C. E. Stevens. New York: 1894.

SOUTH CAROLINA

Historical Collections of South Carolina (1492–1776). 2 vols. B. R. Carroll. New York: 1836.

The History of South Carolina. Edward McCrady. New York: 1906.

Documents Connected with the History of South Carolina. C. J. Weston. London: 1856.

South Carolina as a Royal Province. W. R. Smith. New York: 1906.

Journal of the Provincial Congress of South Carolina, 1776. (With the constitution.) Charles-Town (reprint). London: 1776. 134 pp.

Journal of the Convention of the People of South Carolina, held in 1860, 1861, and 1862, together with the ordinances, reports, resolutions, etc. Published by order of the convention. Columbia, S. C.: 1862. 873 pp.

Journal of the Convention of the People of South Carolina, held in Columbia, S. C., September, 1865, together with the ordinances, reports, resolutions, etc. Published by order of the convention. Columbia, S. C.: 1865. 216 pp.

Proceedings of the Constitutional Convention of South Carolina, held at Charleston, S. C., beginning January 14 and ending March 17, 1868, including the debates and proceedings. Reported by J. Woodruff, phonographic reporter. Published by order of the convention. Charleston, S. C.: 1868. 926 pp. Constitution. 46 pp.

Journal of the Constitutional Convention of the State of South Carolina. Begun to be holden at Columbia, S. C., on Tuesday, the tenth day of September, Anno Domini eighteen hundred and ninety-five, and continued, with divers adjournments, until Wednesday, the fourth day of December, Anno Domini eighteen hundred and ninety-five, when finally adjourned. Columbia, S. C.: 1895. 741 pp. Index.

South Carolina Historical Society. *Collections.*

STATUTES AT LARGE

The Statutes at Large of the United States of America. 17 vols. [1789–1873.] Boston: 1850–1873. Vols. 18–34. [1873–1907.] Washington, Government Printing Office: 1873–1907.

STORY

Commentaries on the Constitution. 4 vols. Joseph Story. 4th ed. (T. M. Cooley, editor.)

TENNESSEE

Proceedings of the Legislative Council of the Territory of the United States of America South of the River Ohio. Begun and held at Knoxville the 25th day of August, 1794. Knoxville: 1794; Nashville: 1852. 35 pp.

Journal of the Proceedings of the House of Representatives of the Territory of the United States South of the River Ohio. Begun and held at Knoxville the 25th day of August, 1794. Knoxville: 1794; Nashville: 1852. 43 pp.

Journal of the Proceedings of the Legislative Council of the Territory of the United States of America South of the River Ohio. Begun and held at Knoxville the 29th day of June, 1795. Knoxville: 1795; Nashville: 1852. 14 pp.

Journal and Proceedings of the House of Representatives of the Territory of the United States of America South of the River Ohio. Begun and held at Knoxville the 29th day of June, 1795. Knoxville: 1795; Nashville: 1852. 19 pp.

Journal of the Proceedings of a Convention begun and held at Knoxville January 11, 1796. Knoxville: 1796; Nashville: 1852. 32 pp.

Journal of the Proceedings of the Convention of Delegates, Elected by the People of Tennessee to Amend, Revise, or Form and Make a New Constitution for the State. Assembled in the city of Nashville, January 10, 1870. Nashville: 1870. 467 pp.

TEXAS

Convention at San Felipe, 1832. (Pres. S. F. Austin.) Proceedings of the general convention of delegates representing the citizens and inhabitants of Texas. Held at the town of San Felipe, in Austin's Colony, October 1–6, 1832. 35 pp. 8°. Brazoria: 1832.

The First Political Convention held in Texas. Memorial of, to the General Congress, that Texas be separated from Coahuila and be admitted as a State into the Mexican Confederacy.

Convention of the People of Texas at San Felipe de Austin, April 1, 1833. (Pres. Wm. H. Wharton.) No published account. Sam Houston made his début as a delegate from Nacogdoches. Burnet's memorial to U. S. Cong. to admit Texas into the Union. Reported by Houston, who was chosen to present it. Mission a failure.

Convention at Washington, 1836. (Pres. Rich'd Ellis.) Journal of the convention held at Washington, on the Brazos, March 1–17, 1836. Pamphlet. 8°. 109 pp. Houston: 1836.

The Constitution of the Republic of Mexico and of the State of Coahuila and Texas. Containing also an abridgment of the laws of the general and State governments relating to colonization, with sundry other laws and documents not before published, particularly relating to Coahuila and Texas. The documents relating to the Galveston Bay and Texas Land Company; the grants to Messrs. Wilson and Exeter and to Col. John Dominguez, with a description of the soil, climate, productions, local and commercial advantages of that interesting country. New York: Ludwig & Tolefree, printers. 1832. 113 pp.

Journals of the Convention Assembled at the City of Austin, July 4, 1845, for the Purpose of Forming a Constitution for the State of Texas. 8°. 378 pp.

Debates in Same. 8°. 759 pp. Constitution and ordinances. 32, 1,169 pp. Austin: 1845.

Record of the Journal of the Convention of the People of Texas which Assembled at the City of Austin on the 28th day of January, A. D. 1861, and which abrogated the Articles of Convention between the State and the Government of the United States of America, and annexed the State of Texas to the Confederate States of America. Recorded by order of the convention, 1861. In MSS., 223 pp., 50 lines to p., 10 words to line; never printed. Appendix, pp. 225–354. (Reports of committee of public safety.) Index, pp. 357–380. O. M. Roberts, pres. Adjourned, March 26, 1861. Secy. state's office.

Journal of the Texas State Convention. Assembled at Austin Feb. 7, 1866; adjourned April 2, 1866. Austin: 1866. 391 pp.

The Constitution, as Amended, and Ordinances of the Convention of 1866; together with the proclamation of the governor declaring the ratification of the amendments to the constitution and the general laws of the regular session of the eleventh legislature of the State of Texas. By authority. Austin: 1866. 272 pp. Index.

Journal Reconstruction Convention, State of Texas, First Session, June 1 to Aug. 31, 1868. 944 pp. 8°. App. pp. 947–992. Index, pp. 995–1089. Austin: 1870.

The Same, second session. (Dec. 7, 1868, to Feb. 6, 1869.) 529 pp. List of delegates, pp. 533–535. Index, pp. 539–576.

Journal of the Reconstruction Convention which met at Austin, Texas, Dec. 7, A. D. 1868. Second session. Austin: 1870. 576 pp.

Journal of the Constitutional Convention of the State of Texas. Begun and held at the city of Austin September 6, 1875. Galveston: 1875. 821 pp. Index.

Reports of the Constitutional Convention of the State of Texas. J. D. Logan & Co., book and job printers: 1875. 10 pp.

THORPE

A Constitutional History of the American People [1776–1850]. 2 vols. Francis Newton Thorpe. New York: 1898. [Devoted wholly to the constitutional development of the States.]

A Constitutional History of the United States, 1765–1895. 3 vols. Francis Newton Thorpe. Chicago: 1901.

A Short Constitutional History of the United States. Francis N. Thorpe. Boston: 1904. [Treats of state and national constitutions.]

TILDEN

Samuel J. Tilden. Writings and speeches. Edited by John Bigelow. 2 vols. New York: 1885.

TREATIES (AND CONVENTIONS)

Treaties and Conventions Concluded between the United States and other Powers since July 4, 1776. Washington: 1889.

UNITED STATES (CONSTITUTION)

Elliot's Debates. 5 vols. Philadelphia: 1881.

(The bibliography of the sources is well covered by the notes in the constitutional histories of the United States cited in this list of authorities.)

Studies in the History of the Federal Convention of 1787. John F. Jameson. Report of the American Historical Association, 1902. vol. 1. pp. 89–167.

Secret Proceedings and Debates of the Convention Assembled at Philadelphia in the Year 1787 for the Purpose of Forming the Constitution of the United States of America. From the notes taken by the late Robert Yates, esq., chief justice of New York, and copied by John Lansing, jun., esq., late chancellor of that State, members of that convention. Including the "Genuine information" laid before the legislature of Maryland, by Luther Martin, esq., then attorney-general of that State, and a member of the same convention. Also other historical documents relative to the Federal Compact of the North American Unions. Albany: 1821. 308 pp.

Alexander Hamilton's Notes on the Federal Convention of 1787. American Historical Review. October, 1904.

Portions of Charles Pinckney's Plan for a Constitution, 1787. American Historical Review. April, 1903.

Sketch of Pinckney's Plan for a Constitution, 1787. American Historical Review. July, 1904.

Papers of William Paterson on the Federal Convention. American Historical Review. January, 1904.

Papers of Dr. James McHenry on the Federal Convention of 1787. American Historical Review. April, 1906.

Documentary History of the Constitution of the United States of America, 1787–1790. Derived from the records, manuscripts, and rolls deposited in the Bureau of Rolls and Library of the Department of State. 3 vols. Washington: Department of State, 1894.

Pamphlets on the Constitution of the United States. Published during its discussion by the people, 1787–1788. Edited with notes and a bibliography by Paul Leicester Ford. Brooklyn, N. Y.: 1888. 451 pp.

The Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the United States. 2 pts. Washington, Government Printing Office: [Compiled by Ben: Perley Poore] 1877.

UTAH

Official Report of the Proceedings and Debates of the Convention Assembled March 4, 1895, to Adopt a Constitution for the State of Utah. 2 vols. Salt Lake City: 1898.

VERMONT

Vermont State Papers; Being a Collection of Records and Documents Connected with the Assumption and Establishment of Government by the People of

Vermont; together with the journal of the council of safety, the first constitution, the early journals of the general assembly, and the laws from the year 1779 to 1786, inclusive. To which are added the Proceedings of the first and second councils of censors. Compiled and published by William Slade, jun., Secretary of State. Middlebury: 1823. 567 pp.

Journal of the Council of Censors, at their Sessions in June and October, 1820, and March, 1821. Published by order of council. Danville (Vt.): 1821. 64 pp.

Journal of the Convention of Vermont Assembled at the State House, at Montpelier, on the 21st day of February, and dissolved on the 23d day of February, 1822. Published by order of convention. Burlington: 1822. 39 pp.

Journal of the Council of Censors, at their Sessions at Montpelier and Burlington, in June, October, and November, 1827. Published by order of council. Montpelier, Vt.: 1828. 48 pp.

Journal of the Convention Holden at Montpelier on the 6th day of January, A. D. 1836, Agreeable to the Ordinance of the Council of Censors, Made on the 16th day of January, 1835; together with the amendments of the constitution, as adopted by the convention, and the whole of the constitution of the State of Vermont as now in force. Published by order of the convention. St. Albans: 1836. 124 pp.

Journal of the Sessions of the Council of Censors of the State of Vermont, held at Montpelier in June and October, A. D. 1841, and at Burlington in February, A. D. 1842. Burlington: 1842. 75 pp.

Journal of the Convention Holden at Montpelier on the Fourth day of January, A. D. 1843, agreeable to the Ordinance of the Council of Censors. Published by order of the convention. Montpelier: 1843. 84 pp.

The Journal of the Council of Censors of the State of Vermont, at their Several Sessions in Montpelier and Burlington, 1848–49. Published by authority. Burlington: 1849. 87 pp.

Journal of the Constitutional Convention Holden at Montpelier on the second day of January, A. D. 1850. Published by order of the convention. Burlington: 1850. 114 pp.

The Journal of the Council of Censors of the State of Vermont, at their Several Sessions in Montpelier and Middlebury, 1855–56. Published by authority. Middlebury: 1856. 108 pp.

Journal of the Proceedings of the Constitutional Convention Assembled at Montpelier on the first Wednesday of January, 1857. Burlington: 1856. 39 pp.

Journal of the Council of Censors of the State of Vermont, at its first Session in Montpelier, June, 1862. Published by order of council. Montpelier: 1862. 24 pp.

Journal of the Council of Censors of the State of Vermont, at its several Sessions held in Montpelier, 1869. Published by order of council. Montpelier: 1869.

Journal of the Proceedings of the Constitutional Convention of the People of Vermont. Begun and held at the State House in Montpelier on the 8th of June, 1870. Printed by authority. Burlington: 1870. 75 pp. Appendix.

Collections of the Vermont Historical Society. Prepared and published by the printing and publishing committee in pursuance of a vote of the society. 2 vols. Montpelier: 1870.

Vermont Historical Society. *Proceedings.*

VIRGINIA

The Statutes at Large (1619–1692). 13 vols. W. W. Hening. Philadelphia and New York: 1823.

Colonial Records of Virginia. Th. H. Wynne, W. S. Gilman. Richmond: 1874.

Ordinances Passed at a General Convention of Delegates and Representatives from the Several Counties and Corporations of Virginia. Held at the capitol in the city of Williamsburg on Monday, the 6th of May, anno Dom. 1776. Reprinted by a resolution of the house of delegates, of the 24th February, 1816. Richmond: 1816. 19 pp.

The Proceedings of the Convention of Delegates for the Counties and Corporations in the Colony of Virginia. Held at Richmond Town, in the county of Henrico, on the 20th March, 1775. Reprinted by a resolution of the house of delegates of the 24th February, 1816. Richmond: 1816. 4°. 116 pp.

The Proceedings of the Convention of Delegates Held at the Capitol, in the City of Williamsburg, in the Colony of Virginia, on Monday, the 6th of May, 1776. Reprinted by a resolution of the house of delegates of the 24th February, 1816. Richmond: 1816. 4°. 86 pp.

Debates and Other Proceedings of the Convention of Virginia. Convened at Richmond on Monday the second day of June, 1878, for the purpose of deliberating on the constitution recommended by the Grand Federal Convention; to which is prefixed the Federal Constitution. 2d ed. Richmond: 1805. 479 pp.

Journal of the Convention of Virginia. Held in the city of Richmond on the first Monday in June in the year of our Lord one thousand seven hundred and eighty-eight. Richmond: 1827. 39 pp.

Journal, Acts and Proceedings of a General Convention of the Commonwealth of Virginia, Assembled in Richmond on Monday, the fifth day of October in the year of our Lord one thousand eight hundred and twenty-nine. Richmond: 1829. 302 pp. Reports in appendix.

Proceedings and Debates of the Virginia State Convention of 1829–30. Richmond: 1830. 919 pp.

Journal, Acts and Proceedings of a General Convention of the State of Virginia, Assembled at Richmond on Monday the 14th day of October, 1850. Richmond: 1850. 422 pp. Appendix.

Documents Containing Statistics of Virginia. Ordered to be printed by the State convention, sitting in the city of Richmond, 1850–51. Richmond: 1851.

Journal of the House of Delegates of the State of Virginia for the Extra Session, 1861. Wheeling: 1861. 104 pp.

Journal of the Acts and Proceedings of a General Convention of the State of Virginia, Assembled at Richmond on Wednesday the thirteenth day of February, eighteen hundred and sixty-one. Richmond: 1861. (With ordinances adopted at various sessions.)

Journal of the Constitutional Convention which convened at Alexandria on the 13th day of February, 1864. Alexandria: 1864. 52 pp. Constitution and Ordnances of the Same. 30 pp.

The Debates and Proceedings of the Constitutional Convention of the State of Virginia, Assembled at the City of Richmond, Tuesday, December 3, 1867. vol. 1. Richmond: 1868. 750 pp.

Journal of the Constitutional Convention of the State of Virginia. Convened in the City of Richmond, December 3, 1867. Richmond: 1867. 391 pp.

Documents of the Constitutional Convention of the State of Virginia. Richmond: 1867. 310 pp.

The History of Virginia Conventions, with the Constitutions of 1867–68 and 1901–2. J. N. Brenaman. Richmond: 1902.

Journal [and Documents] of the Convention at Richmond, June 12, 1901–(June 26, 1902). Richmond: 1901. 574 pp.

Virginia Magazine of History and Biography.

Virginia Historical Register.

Virginia Historical Society. *Collections.*

WASHINGTON

George Washington. Writings. Edited by Jared Sparks. 12 vols. Boston: 1837.

George Washington. Writings. Edited by W. C. Ford. 14 vols. New York: 1889–1893.

WEBSTER

Daniel Webster. Works. 6 vols. Boston: 1851.

Daniel Webster. Private Correspondence. Edited by Fletcher Webster. 2 vols. Boston: 1857.

WEST VIRGINIA

Journal of the Constitutional Convention, assembled at Charleston, West Virginia, January 16, 1872. Charleston: 1872. 353 pp. Standing committees and rules; Reports, &c.

WILSON

James Wilson. Works. 3 vols. Philadelphia: 1804.

WINSOR

The Narrative and Critical History of America. Edited by Justin Winsor. 8 vols. Boston: 1886–1889.

WISCONSIN

Journal of the Convention to form a Constitution for the State of Wisconsin. Begun and held at Madison on the fifth day of October, one thousand eight hundred and forty-six. Madison, W. T.: 1847. 506 pp.

Journal of the Convention to form a Constitution for the State of Wisconsin: with a sketch of the debates, begun and held at Madison, on the fifteenth day of December, eighteen hundred and forty-seven. By authority of the convention. Madison, W. T.: 1848. 678 pp.

State Historical Society of Wisconsin. *Collections.*

WOODBURY

Levi Woodbury. Writings. 3 vols. Boston: 1852.

WYOMING

Journal and Debates of the Constitutional Convention of the State of Wyoming. Begun at the City of Cheyenne on September 2, 1889, and concluded September 30, 1889. Printed by authority. Cheyenne, Wyo.: 1893. 864 pp. Constitution. Index.

Organic Laws

of the United States of America

DECLARATION OF INDEPENDENCE*[a]

In Congress, July 4, 1776

The unanimous Declaration of the thirteen united States of America

When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the Powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the gov-

---

* Text in Revised Statutes (ed. 1878). Facsimile of the engrossed copy in Force's American Archives, Series V., I., 1597.

[a] The delegates of the United Colonies of New Hampshire; Massachusetts Bay; Rhode Island and Providence Plantations; Connecticut; New York; New Jersey; Pennsylvania; New Castle, Kent, and Sussex, in Delaware; Maryland; Virginia; North Carolina, and South Carolina, In Congress assembled at Philadelphia, *Resolved* on the 10th of May, 1776, to recommend to the respective assemblies and conventions of the United Colonies, where no government sufficient to the exigencies of their affairs had been established, to adopt such a government as should, in the opinion of the representatives of the people, best conduce to the happiness and safety of their constituents in particular, and of America in general. A preamble to this resolution, agreed to on the 15th of May, stated the intention to be totally to suppress the exercise of every kind of authority under the British crown. On the 7th of June, certain resolutions respecting independency were moved and seconded. On the 10th of June, it was resolved, that a committee should be appointed to prepare a declaration to the following effect: "That the United Colonies are, and of right ought to be, free and independent States; that they are absolved from all allegiance to the British crown; and that all political connection between them and the State of Great Britain is, and ought to be, totally dissolved." On the preceding day it was determined that the committee for preparing the declaration should consist of five, and they were chosen accordingly, in the following order: Mr. Jefferson, Mr. J. Adams, Mr. Franklin, Mr. Sherman, Mr. R. R. Livingston. On the 11th of June, a resolution was passed to appoint a committee to prepare and digest the form of a confederation to be entered into between the colonies, and another committee to prepare a plan of treaties to be proposed to foreign powers. On the 12th of June, it was resolved, that a committee of Congress should be appointed by the name of a board of war and ordnance, to consist of five members. On the 25th of June, a declaration of the deputies of Pennsylvania, met in provincial conference, expressing their willingness to concur in a vote declaring the United Colonies free and independent States, was laid before Congress and read. On the 28th of June, the committee appointed to prepare a declaration of independence brought in a draught, which

erned, That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.—Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, lets Facts be submitted to a candid world.

He has refused his Assent to Laws, the most wholesome and necessary for the public good.

He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of

---

was read, and ordered to lie on the table. On the 1st of July, a resolution of the convention of Maryland, passed the 28th of June, authorizing the deputies of that colony to concur in declaring the United Colonies free and independent States, was laid before Congress and read. On the same day Congress resolved itself into a committee of the whole, to take into consideration the resolution respecting independency. On the 2d of July, a resolution declaring the colonies free and independent States, was adopted. A declaration to that effect was, on the same and the following days, taken into further consideration. Finally, on the 4th of July, the Declaration of Independence was agreed to, engrossed on paper, signed by John Hancock as President, and directed to be sent to the several assemblies, conventions, and committees, or councils of safety, and to the several commanding officers of the continental troops, and to be proclaimed in each of the United States, and at the head of the Army. It was also ordered to be entered upon the Journals of Congress, and on the 2d of August, a copy engrossed on parchment was signed by all but one of the fifty-six signers whose names are appended to it. That one was Matthew Thornton, of New Hampshire, who on taking his seat in November asked and obtained the privilege of signing it. Several who signed it on the 2d of August were absent when it was adopted on the 4th of July, but, approving of it, they thus signified their approbation.

NOTE.—The proof of this document as published above, was read by Mr. Ferdinand Jefferson, the Keeper of the Rolls at the Department of State, at Washington, who compared it with the fac-simile of the original in his custody. He says: "In the fac-simile, as in the original, the whole instrument runs on without a break, but dashes are mostly inserted. I have, in this copy, followed the arrangement of paragraphs adopted in the publication of the Declaration in the newspaper of John Dunlap, and as printed by him for the Congress, which printed copy is inserted in the original Journal of the old Congress. The same paragraphs are also made by the author, in the original draught preserved in the Department of State."

Representation in the Legislature, a right inestimable to them and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their Public Records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the Legislative Powers, incapable of Annihilation, have returned to the People at large for their exercise: the State remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within.

He has endeavoured to prevent the population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migration hither, and raising the conditions of new Appropriations of Lands.

He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary Powers.

He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of New Offices, and sent hither swarms of Officers to harrass our People, and eat out their substance.

He has kept among us, in times of peace, Standing Armies without the Consent of our legislature.

He has affected to render the Military independent of and superior to the Civil Power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation:

For quartering large bodies of armed troops among us:

For protecting them, by a mock Trial, from Punishment for any Murders which they should commit on the Inhabitants of these States:

For cutting off our Trade with all parts of the world:

For imposing Taxes on us without our Consent:

For depriving us in many cases, of the benefits of Trial by Jury:

For transporting us beyond Seas to be tried for pretended offences:

For abolishing the free System of English Laws in a neighbouring Province, establishing therein an Arbitrary government, and enlarging its Boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies:

For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments:

For suspending our own Legislatures, and declaring themselves invested with Power to legislate for us in all cases whatsoever.

He has abdicated Government here, by declaring us out of his Protection and waging War against us.

He has plundered our seas, ravaged our Coasts, burnt our towns, and destroyed the Lives of our people.

He is at this time transporting large Armies of foreign Mercenaries to compleat the works of death, desolation and tyranny, already begun with circumstances of Cruelty & perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.

He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the executioners of their friends and Brethren, or to fall themselves by their Hands.

He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian Savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury. A Prince, whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free People.

Nor have We been wanting in attention to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which, would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.

We, therefore, the Representatives of the united States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be Free and Independent States; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do. And for the support of this Declaration, with a firm reliance on the Protection of Divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.

JOHN HANCOCK.

New Hampshire

JOSIAH BARTLETT, MATTHEW THORNTON.
WM. WHIPPLE.

Massachusetts Bay

SAML. ADAMS, ROBT. TREAT PAINE,
JOHN ADAMS, ELBRIDGE GERRY.

Rhode Island

STEP. HOPKINS, WILLIAM ELLERY.

Connecticut

ROGER SHERMAN, WM. WILLIAMS,
SAM'EL HUNTINGTON, OLIVER WOLCOTT.

New York

WM. FLOYD,
PHIL. LIVINGSTON,
FRANS. LEWIS,
LEWIS MORRIS.

New Jersey

RICHD. STOCKTON,
JNO. WITHERSPOON,
FRAS. HOPKINSON,
JOHN HART,
ABRA. CLARK.

Pennsylvania

ROBT. MORRIS,
BENJAMIN RUSH,
BENJA. FRANKLIN,
JOHN MORTON,
GEO. CLYMER,
JAS. SMITH,
GEO. TAYLOR,
JAMES WILSON,
GEO. ROSS.

Delaware

CÆSAR RODNEY,
GEO. READ,
THO. M'KEAN.

Maryland

SAMUEL CHASE,
WM. PACA,
THOS. STONE,
CHARLES CARROLL of Carrollton.

Virginia

GEORGE WYTHE,
RICHARD HENRY LEE,
TH JEFFERSON,
BENJA. HARRISON,
THOS. NELSON, jr.,
FRANCIS LIGHTFOOT LEE,
CARTER BRAXTON.

North Carolina

WM. HOOPER,
JOSEPH HEWES,
JOHN PENN.

South Carolina

EDWARD RUTLEDGE,
THOS. HEYWARD, JUNR.,
THOMAS LYNCH, JUNR.,
ARTHUR MIDDLETON.

Georgia

BUTTON GWINNETT,
LYMAN HALL,
GEO. WALTON.

NOTE.—Mr. Ferdinand Jefferson, Keeper of the Rolls in the Department of State, at Washington, says: "The names of the signers are spelt above as in the fac-simile of the original, but the punctuation of them is not always the same; neither do the names of the States appear in the fac-simile of the original. The names of the signers of each State are grouped together in the fac-simile of the original, except the name of Matthew Thornton, which follows that of Oliver Wolcott."

ARTICLES OF CONFEDERATION—1777 *[a]

To all to whom these Presents shall come, we the undersigned Delegates of the States affixed to our Names send greeting.

Whereas the Delegates of the United States of America in Congress assembled did on the fifteenth day of November in the Year of our Lord One Thousand Seven Hundred and Seventyseven, and in the Second Year of the Independence of America agree to certain articles of Confederation and perpetual Union between the States of Newhampshire, Massachusetts-bay, Rhodeisland and Providence Planta-

---

* Text in Revised Statutes (ed. 1878).

[a] Congress *Resolved*, on the 11th of June, 1776, that a committee should be appointed to prepare and digest the form of a confederation to be entered into between the Colonies; and on the day following, after it had been determined that the committee should consist of a member from each Colony, the following persons were appointed to perform that duty, to wit: Mr. Bartlett, Mr. S. Adams, Mr. Hopkins, Mr. Sherman, Mr. R. R. Livingston, Mr. Dickinson, Mr. M'Kean, Mr. Stone, Mr. Nelson, Mr. Hewes, Mr. E. Rutledge, and Mr. Gwinnett. Upon the report of this committee, the subject was, from time to time, debated, until the 15th of November, 1777, when a copy of the confederation being made out, and sundry amendments made in the diction, without altering the sense, the same was finally agreed to. Congress, at the same time, directed that the articles should be proposed to the legislatures of all the United States, to be considered, and if approved of by them, they were advised to authorize their delegates to ratify the same in the Congress of the United States; which being done, the same should become conclusive. Three hundred copies of the Articles of Confederation were ordered to be printed for the use of Congress; and on the 17th of November, the form of a circular letter to accompany them was brought in by a committee appointed to prepare it, and being agreed to, thirteen copies of it were ordered to be made out, to be signed by the president and forwarded to the several States, with copies of the confederation. On the 29th of November ensuing, a committee of three was appointed, to procure a translation of the articles to be made into the French language, and to report an address to the inhabitants of Canada, &c. On the 26th of June, 1778, the form of a ratification of the Articles of Confederation was adopted, and, it having been engrossed on parchment, it was signed on the 9th of July on the part and in behalf of their respective States, by the delegates of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, Pennsylvania, Virginia, and South Carolina, agreeably to the powers vested in them. The delegates of North Carolina signed on the 21st of July, those of Georgia on the 24th of July, and those of New Jersey on the 26th of November following. On the 5th of May, 1779, Mr. Dickinson and Mr. Van Dyke signed in behalf of the State of Delaware, Mr. M'Kean having previously signed in February, at which time he produced a power to that effect. Maryland did not ratify until the year 1781. She had instructed her delegates, on the 15th of December, 1778, not to agree to the confederation until matters respecting the western lands should be settled on principles of equity and sound policy: but, on the 30th of January, 1781, finding that the enemies of the country took advantage of the circumstances to disseminate opinions of an ultimate dissolution of the Union, the legislature of the State passed an act to empower their delegates to subscribe and ratify the articles, which was accordingly done by

tions, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina and Georgia in the Words following, viz.

"Articles of Confederation and perpetual Union between the States of Newhampshire, Massachusetts-bay, Rhodeisland and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina and Georgia.

ARTICLE I. The stile of this confederacy shall be "The United States of America."

ARTICLE II. Each State retains its sovereignty, freedom and independence, and every power, jurisdiction and right, which is not by this confederation expressly delegated to the United States, in Congress assembled.

ARTICLE III. The said States hereby severally enter into a firm league of friendship with each other, for their common defence, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other, against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever.

ARTICLE IV. The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States, paupers, vagabonds and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall have free ingress and regress to and from any other State, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions and restrictions as the inhabitants thereof respectively, provided that such restrictions shall not extend so far as to prevent the removal of property imported into any State, to any other State of which the owner is an inhabitant; provided also that no imposition, duties or restriction shall be laid by any State, on the property of the United States, or either of them.

If any person guilty of, or charged with treason, felony, or other high misdemeanor in any State, shall flee from justice, and be found in any of the United States, he shall upon demand of the Governor or Executive power, of the State from which he fled, be delivered up and removed to the State having jurisdiction of his offence.

Mr. Hanson and Mr. Carroll, on the 1st of March of that year, which completed the ratifications of the act; and Congress assembled on the 2d of March under the new powers.

NOTE.—The proof of this document, as published above, was read by Mr. Ferdinand Jefferson, the Keeper of the Rolls of the Department of State, at Washington, who compared it with the original in his custody. He says: "The initial letters of many of the words in the original of this instrument are capitals, but as no system appears to have been observed, the same word sometimes beginning with a capital and sometimes with a small letter, I have thought it best not to undertake to follow the original in this particular. Moreover, there are three forms of the letter s: the capital S, the small s, and the long f, the last being used indiscriminately to words that should begin with a capital and those that should begin with a small s."

Full faith and credit shall be given in each of these States to the records, acts and judicial proceedings of the courts and magistrates of every other State.

ARTICLE V. For the more convenient management of the general interests of the United States, delegates shall be annually appointed in such manner as the legislature of each State shall direct, to meet in Congress on the first Monday in November, in every year, with a power reserved to each State, to recall its delegates, or any of them, at any time within the year, and to send others in their stead, for the remainder of the year.

No State shall be represented in Congress by less than two, nor by more than seven members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the United States, for which he, or another for his benefit receives any salary, fees or emolument of any kind.

Each State shall maintain its own delegates in a meeting of the States, and while they act as members of the committee of the States.

In determining questions in the United States, in Congress assembled, each State shall have one vote.

Freedom of speech and debate in Congress shall not be impeached or questioned in any court, or place out of Congress, and the members of Congress shall be protected in their persons from arrests and imprisonments, during the time of their going to and from, and attendance on Congress, except for treason, felony, or breach of the peace.

ARTICLE VI. No State without the consent of the United States in Congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conferrence, agreement, alliance or treaty with any king prince or state; nor shall any person holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office or title of any kind whatever from any king, prince or foreign state; nor shall the United States in Congress assembled, or any of them, grant any title of nobility.

No two or more States shall enter into any treaty, confederation or alliance whatever between them, without the consent of the United States in Congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

No State shall lay any imposts or duties, which may interfere with any stipulations in treaties, entered into by the United States in Congress assembled, with any king, prince or state, in pursuance of any treaties already proposed by Congress, to the courts of France and Spain.

No vessels of war shall be kept up in time of peace by any State, except such number only, as shall be deemed necessary by the United States in Congress assembled, for the defence of such State, or its trade; nor shall any body of forces be kept up by any State, in time of peace, except such number only, as in the judgment of the United States, in Congress assembled, shall be deemed requisite to garrison the forts necessary for the defence of such State; but every State shall always keep up a well regulated and disciplined militia, sufficiently armed and accoutred, and shall provide and constantly have ready for use, in public stores, a due number of field pieces and tents, and a proper quantity of arms, ammunition and camp equipage.

No State shall engage in any war without the consent of the United States in Congress assembled, unless such State be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such State, and the danger is so imminent as not to admit of a delay, till the United States in Congress assembled can be consulted: nor shall any State grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the United States in Congress assembled, and then only against the kingdom or state and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the United States in Congress assembled, unless such State be infested by pirates, in which case vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the United States in Congress assembled shall determine otherwise.

Article VII. When land-forces are raised by any State for the common defence, all officers of or under the rank of colonel, shall be appointed by the Legislature of each State respectively by whom such forces shall be raised, or in such manner as such State shall direct, and all vacancies shall be filled up by the State which first made the appointment.

Article VIII. All charges of war, and all other expenses that shall be incurred for the common defence or general welfare, and allowed by the United States in Congress assembled, shall be defrayed out a common treasury, which shall be supplied by the several States, in proportion to the value of all land within each State, granted to or surveyed for any person, as such land and the buildings and improvements thereon shall be estimated according to such mode as the United States in Congress assembled, shall from time to time direct and appoint.

The taxes for paying that proportion shall be laid and levied by the authority and direction of the Legislatures of the several States within the time agreed upon by the United States in Congress assembled.

Article IX. The United States in Congress assembled, shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth article—of sending and receiving ambassadors—entering into treaties and alliances, provided that no treaty of commerce shall be made whereby the legislative power of the respective States shall be restrained from imposing such imposts and duties on foreigners, as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever—of establishing rules for deciding in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated—of granting letters of marque and reprisal in times of peace—appointing courts for the trial of piracies and felonies committed on the high seas and establishing courts for receiving and determining finally appeals in all cases of captures, provided that no member of Congress shall be appointed a judge of any of the said courts.

The United States in Congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting or that

hereafter may arise between two or more States concerning boundary, jurisdiction or any other cause whatever; which authority shall always be exercised in the manner following. Whenever the legislative or executive authority or lawful agent of any State in controversy with another shall present a petition to Congress, stating the matter in question and praying for a hearing, notice thereof shall be given by order of Congress to the legislative or executive authority of the other State in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question: but if they cannot agree, Congress shall name three persons out of each of the United States, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven, nor more than nine names as Congress shall direct, shall in the presence of Congress be drawn out by lot, and the persons whose names shall be so drawn or any five of them, shall be commisioners or judges, to hear and finally determine the controversy, so always as a major part of the judges who shall hear the cause shall agree in the determination: and if either party shall neglect to attend at the day appointed, without showing reasons, which Congress shall judge sufficient, or being present shall refuse to strike, the Congress shall proceed to nominate three persons out of each State, and the Secretary of Congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court to be appointed, in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence, or judgment, which shall in like manner be final and decisive, the judgment or sentence and other proceedings being in either case transmitted to Congress, and lodged among the acts of Congress for the security of the parties concerned: provided that every commissioner, before he sits in judgment, shall take an oath to be administered by one of the judges of the supreme or superior court of the State where the cause shall be tried, "well and truly to hear and determine the matter in question, according to the best of his judgment, without favour, affection or hope of reward:" provided also that no State shall be deprived of territory for the benefit of the United States.

All controversies concerning the private right of soil claimed under different grants of two or more States, whose jurisdiction as they may respect such lands, and the States which passed such grants are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall on the petition of either party to the Congress of the United States, be finally determined as near as may be in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different States.

The United States in Congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective States.—fixing the standard of weights and measures throughout the

United States.—regulating the trade and managing all affairs with the Indians, not members of any of the States, provided that the legislative right of any State within its own limits be not infringed or violated—establishing and regulating post-offices from one State to another, throughout all the United States, and exacting such postage on the papers passing thro' the same as may be requisite to defray the expenses of the said office—appointing all officers of the land forces, in the service of the United States, excepting regimental officers—appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States—making rules for the government and regulation of the said land and naval forces, and directing their operations.

The United States in Congress assembled shall have authority to appoint a committee, to sit in the recess of Congress, to be denominated "a Committee of the States," and to consist of one delegate from each State; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States under their direction—to appoint one of their number to preside, provided that no person be allowed to serve in the office of president more than one year in any term of three years; to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses—to borrow money, or emit bills on the credit of the United States, transmitting every half year to the respective States an account of the sums of money so borrowed or emitted,—to build and equip a navy—to agree upon the number of land forces, and to make requisitions from each State for its quota, in proportion to the number of white inhabitants in such State; which requisition shall be binding, and thereupon the Legislature of each State shall appoint the regimental officers, raise the men and cloath, arm and equip them in a soldier like manner, at the expense of the United States; and the officers and men so cloathed, armed and equipped shall march to the place appointed, and within the time agreed on by the United States in Congress assembled: but if the United States in Congress assembled shall, on consideration of circumstances judge proper that any State should not raise men, or should raise a smaller number of men than the quota therof, such extra number shall be number of men that the quota thereof, such extra number shall be raised, officered, cloathed, armed and equipped in the same manner as the quota of such State, unless the legislature of such State shall judge that such extra number cannot be safely spared out of the same, in which case they shall raise officer, cloath, arm and equip as many of such extra number as they judge can be safely spared. And the officers and men so cloathed, armed and equipped, shall march to the place appointed, and within the time agreed on by the United States in Congress assembled.

The United States in Congress assembled shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defence and welfare of the United States, or any of them, nor emit bills, nor borrow money on the credit of the United States, nor appropriate money, nor agree upon the number of vessels of war, to be

built or purchased, or the number of land or sea forces to be raised, nor appoint a commander in chief of the army or navy, unless nine States assent to the same: nor shall a question on any other point, except for adjourning from day to day be determined, unless by the votes of a majority of the United States in Congress assembled.

The Congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months, and shall publish the journal of their proceedings monthly, except such parts thereof relating to treaties, alliances or military operations, as in their judgment requiry secresy; and the yeas and nays of the delegates of each State on any question shall be military operations, as in their judgment require secresy; and the delegates of a State, or any of them, at his or their request shall be furnished with a transcript of the said journal, except such parts as are above excepted, to lay before the Legislatures of the several States.

Article X. The committe of the States, or any nine of them, shall be authorized to execute, in the recess of Congress, such of the powers of Congress as the United States in Congress assembled, by the consent of nine States, shall from time to time think expedient to vest them with; provided that no power be delegated to the said committee, for the exercise of which, by the articles of confederation, the voice of nine States in the Congress of the United States assembled is requisite.

Article XI. Canada acceding to this confederation, and joining in the measures of the United States, shall be admitted into, and entitled to all the advantages of this Union: but no other colony shall be admitted into the same, unless such admission be agreed to by nine States.

Article XII. All bills of credit emitted, monies borrowed and debts contracted by, or under the authority of Congress, before the assembling of the United States, in pursuance of the present confederation, shall be deemed and considered as a charge against the United States, for payment and satisfaction whereof the said United States, and the public faith are hereby solemnly pledged.

Article XIII. Every State shall abide by the determinations of the United States in Congress assembled, on all questions which by this confederation are submitted to them. And the articles of this confederation shall be inviolably observed by every State, and the Union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them; unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the Legislatures of every State.

And whereas it has pleased the Great Governor of the world to incline the hearts of the Legislatures we respectively represent in Congress, to approve of, and to authorize us to ratify the said articles of confederation and perpetual union. Know ye that we the undersigned delegates, by virtue of the power and authority to us given for that purpose, do by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said articles of confederation and perpetual union, and all and singular the matters and things therein contained:

and we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States in Congress assembled, on all questions, which by the said confederation are submitted to them. And that the articles thereof shall be inviolably observed by the States we re[s]pectively represent, and that the Union shall be perpetual.

In witness whereof we have hereunto set our hands in Congress. Done at Philadelphia in the State of Pennsylvania the ninth day of July in the year of our Lord one thousand seven hundred and seventy-eight, and in the third year of the independence of America.[a]

On the part & behalf of the State of New Hampshire

JOSIAH BARTLETT,
JOHN WENTWORTH, Junr., August 8th, 1778.

On the part and behalf of the State of Massachusetts Bay

JOHN HANCOCK,
SAMUEL ADAMS,
ELBRIDGE GERRY,
FRANCIS DANA,
JAMES LOVELL,
SAMUEL HOLTEN.

On the part and behalf of the State of Rhode Island and Providence Plantations

WILLIAM ELLERY,
HENRY MARCHANT,
JOHN COLLINS.

On the part and behalf of the State of Connecticut

ROGER SHERMAN,
SAMUEL HUNTINGTON,
OLIVER WOLCOTT,
TITUS HOSMER,
ANDREW ADAMS.

On the part and behalf of the State of New York

JAS. DUANE,
FRA. LEWIS,
WM. DUER,
GOUV. MORRIS.

On the part and in behalf of the State of New Jersey, Nov. 26, 1778

JNO. WITHERSPOON,
NATHL. SCUDDER.

On the part and behalf of the State of Pennsylvania

ROBT. MORRIS,
DANIEL ROBERDEAU,
JONA. BAYARD SMITH,
WILLIAM CLINGAN,
JOSEPH REED, 22d July, 1778.

On the part & behalf of the State of Delaware

THO. M'KEAN, Feby. 12, 1779.
JOHN DICKINSON, May 5th, 1779.
NICHOLAS VAN DYKE.

On the part and behalf of the State of Maryland

JOHN HANSON, March 1, 1781.
DANIEL CARROLL, Mar. 1, 1781.

[a] From the circumstance of delegates from the same State having signed the Articles of Confederation at different times, as appears by the dates, it is probable they affixed their names as they happened to be present in Congress, after they had been authorized by their constituents.

On the part and behalf of the State of Virginia

RICHARD HENRY LEE,
JOHN BANISTER,
THOMAS ADAMS,
JNO. HARVIE,
FRANCIS LIGHTFOOT LEE.

On the part and behalf of the State of No. Carolina

JOHN PENN, July 21st, 1778.
CORNS. HARNETT,
JNO. WILLIAMS.

On the part & behalf of the State of South Carolina

HENRY LAURENS,
WILLIAM HENRY DRAYTON,
JNO. MATHEWS,
RICHD. HUTSON,
THOS. HEYWARD, Junr.

On the part & behalf of the State of Georgia

JNO. WALTON,
24th July, 1778.
EDWD. TELFAIR,
EDWD. LANGWORTHY.

THE CONSTITUTION OF THE UNITED STATES OF AMERICA—1787[a]

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Article I

Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of Free persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

---

[a] The Constitution of the United States of America, with the amendments. Compared with the original in the Department of State, April 13, 1891, and found to be correct. Washington: Government Printing Office, 1891.

A facsimile of the original MS. in Carson's 100th Anniversary of the Promulgation of the Constitution of the United States. I.

The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

Section 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The seats of the Senators of the first Class shall be vacated at the Expiration of the second year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one-third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: and no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

Section 4. The Times, Places and manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

Section 5. Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of

either House on any question shall, at the desire of one fifth of those Present, be entered on the Journal.

Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

Section 6. The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

Section 7. All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

Section 8. The Congress shall have Power to lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow Money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and post Roads;

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;—And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Section 9. The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

No Bill of Attainder or ex post facto Law shall be passed.

No Capitation, or other direct, tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

No Tax or Duty shall be laid on Articles exported from any State.

No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall

Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

Section 10. No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

Article II

Section 1. The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of

Votes, then the House of Representatives shall immediately chuse, by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List, the said House shall in like manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one vote; A quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice-President.

The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

No person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

In Case of the Removal of the President from Office, or of his Death, Resignation or Inability to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be encreased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:—"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

Section 2. The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the

Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next session.

Section 3. He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall commission all the Officers of the United States.

Section 4. The President, Vice President, and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

Article III

Section 1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

Section 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States,—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

Section 3. Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving

them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attained.

Article IV

Section 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

Section 2. The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

A person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up to be removed to the State having Jurisdiction of the Crime.

No person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

Section 3. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

Section 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

Article V

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year

One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

Article VI

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

Article VII

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

The Word, "the", being interlined between the Seventh and eighth Lines of the first Page, The Word "Thirty" being partly written on an Erazure in the fifteenth Line of the first Page, The Words "is tried" being interlined between the thirty second and thirty third Lines of the first Page and the Word "the" being interlined between the forty third and forty fourth Lines of the second Page.

[Note by Printer.—The interlined and rewritten words, mentioned in the above explanation, are in this edition, printed in their proper places in the text.]

Done in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independance of the United States of America the Twelfth **In Witness** whereof We have hereunto subscribed our Names,

G^{o}: Washington—*Presidt. and deputy from Virginia*

Attest William Jackson *Secretary*

New Hampshire	John Langdon Nicholas Gilman
Massachusetts	Nathaniel Gorham Rufus King
Connecticut	Wm: Saml. Johnson Roger Sherman
New York	Alexander Hamilton

New Jersey	Wil: Livingston David Brearley. Wm. Paterson. Jona: Dayton
Pennsylvania	B Franklin Thomas Mifflin Robt. Morris Geo. Clymer Thos. Fitz Simons Jared Ingersoll James Wilson Gouv Morris
Delaware	Geo: Read Gunning Bedford jun John Dickinson Richard Bassett Jaco: Broom
Maryland	James McHenry Dan of St Thos. Jenifer Danl Carroll
Virginia	John Blair— James Madison Jr.
North Carolina	Wm: Blount Richd. Dobbs Spaight. Hu Williamson
South Carolina	J. Rutledge. Charles Pinckney, Charles Cotesworth Pinckney, Pierce Butler.
Georgia	William Few, Abr. Baldwin.

Attest: William Jackson, *Secretary.*

AMENDMENTS

ARTICLES IN ADDITION TO, AND AMENDMENT OF, THE CONSTITUTION OF THE UNITED STATES OF AMERICA

Proposed by Congress, and Ratified by the Legislatures of the Several States Pursuant to the Fifth Article of the Original Constitution

[Article I]

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

[Article II]

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

[Article III]

No Soldier shall, in time of peace, be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

[Article IV]

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

[Article V]

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any Criminal Case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

[Article VI]

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district

wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

[Article VII]

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

[Article VIII]

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

[Article IX]

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

[Article X]

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

[Article XI]

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

[Article XII]

The Electors shall meet in their respective states, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate;—The President of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;—The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be

taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

[Article XIII*]

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

[Article XIV†]

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or

rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

SECTION 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

SECTION 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.*

RATIFICATION OF THE CONSTITUTION *

THE Constitution was adopted by a Convention of the States September 17, 1787, and was subsequently ratified by the several States, in the following order, viz.:

Delaware, December 7, 1787.
Pennsylvania, December 12, 1787.
New Jersey, December 18, 1787.
Georgia, January 2, 1788.
Connecticut, January 9, 1788.
Massachusetts, February 6, 1788.
Maryland, April 28, 1788.
South Carolina, May 23, 1788.
New Hampshire, June 21, 1788.
Virginia, June 26, 1788.
New York, July 26, 1788.
North Carolina, November 21, 1789.
Rhode Island, May 29, 1790.

The State of Vermont, by convention, ratified the Constitution on the 10th of January, 1791, and was, by an act of Congress of the 18th of February, 1791, "received and admitted into this Union as a new and entire member of the United States of America."

RATIFICATIONS OF THE AMENDMENTS TO THE CONSTITUTION

THE first ten articles of amendment (with two others which were not ratified by the requisite number of States) were submitted to the several State Legislatures by a resolution of Congress which passed on the 25th of September, 1789, at the first session of the First Congress, and were ratified by the Legislatures of the following States:

New Jersey, November 20, 1789.
Maryland, December 19, 1789.
North Carolina, December 22, 1789.
South Carolina, January 19, 1790.
New Hampshire, January 25, 1790.
Delaware, January 28, 1790.
Pennsylvania, March 10, 1790.
New York, March 27, 1790.
Rhode Island, June 15, 1790.

Vermont, November 3, 1791.
Virginia, December 15, 1791.

The acts of the Legislatures of the States ratifying these amendments were transmitted by the governors to the President, and by him communicated to Congress. The Legislatures of Massachusetts, Connecticut, and Georgia, do not appear by the record to have ratified them.

The eleventh article was submitted to the Legislatures of the several States by a resolution of Congress passed on the 5th of March, 1794, at the first session of the Third Congress; and on the 8th of January, 1798, at the second session of the Fifth Congress, it was declared by the President, in a message to the two Houses of Congress, to have been adopted by the Legislatures of three-fourths of the States, there being at that time sixteen States in the Union.

The twelfth article was submitted to the Legislatures of the several States, there being then seventeen States, by a resolution of Congress passed on the 12th of December, 1803, at the first session of the Eighth Congress; and was ratified by the Legislatures of three-fourths of the States, in 1804, according to a proclamation of the Secretary of State dated the 25th of September, 1804.

The thirteenth article was submitted to the Legislatures of the several States, there being then thirty-six States, by a resolution of Congress passed on the 1st of February, 1865, at the second session of the Thirty-eighth Congress, and was ratified, according to a proclamation of the Secretary of State dated December 18, 1865, by the Legislatures of the following States:

Illinois, February 1, 1865.
Rhode Island, February 2, 1865.
Michigan, February 2, 1865.
Maryland, February 3, 1865.
New York, February 3, 1865.
West Virginia, February 3, 1865.
Maine, February 7, 1865.
Kansas, February 7, 1865.
Massachusetts, February 8, 1865.
Pennsylvania, February 8, 1865.
Virginia, February 9, 1865.
Ohio, February 10, 1865.
Missouri, February 10, 1865.
Indiana, February 16, 1865.
Nevada, February 16, 1865.
Louisiana, February 17, 1865.
Minnesota, February 23, 1865.
Wisconsin, March, 1, 1865.
Vermont, March 9, 1865.
Tennessee, April 7, 1865.
Arkansas, April 20, 1865.
Connecticut, May 5, 1865.
New Hampshire, July 1, 1865.
South Carolina, November 13, 1865.
Alabama, December 2, 1865.
North Carolina, December 4, 1865.
Georgia, December 9, 1865.

The following States not enumerated in the proclamation of the Secretary of State also ratified this amendment:

Oregon, December 11, 1865.
California, December 20, 1865.
Florida, December 28, 1865.
New Jersey, January 23, 1866.
Iowa, January 24, 1866.
Texas, February 18, 1870.

Mississippi rejected the amendment December 4, 1865; Kentucky, February 22, 1865; Delaware, February 7, 1867; Maryland, March 23, 1867.

The fourteenth article was submitted to the Legislatures of the several States, there being then thirty-seven States, by a resolution of Congress passed on the 16th of June, 1866, at the first session of the Thirty-ninth Congress; and was ratified, according to proclamation of the Secretary of State dated July 28, 1868, by the Legislatures of the following States:

Connecticut, June 30, 1866.
New Hampshire, July 7, 1866.
Tennessee, July 19, 1866.
New Jersey, September 11, 1866.[a]
Oregon, September 19, 1866.[b]
Vermont, November 9, 1866.
New York, January 10, 1867.
Ohio, January 11, 1867.[c]
Illinois, January 15, 1867.
West Virginia, January 16, 1867.
Kansas, January 18, 1867.
Maine, January 19, 1867.
Nevada, January 22, 1867.
Missouri, January 26, 1867.
Indiana, January 29, 1867.
Minnesota, February 1, 1867.
Rhode Island, February 7, 1867.
Wisconsin, February 13, 1867.
Pennsylvania, February 13, 1867.
Michigan, February 15, 1867.
Massachusetts, March 20, 1867.
Nebraska, June 15, 1867.
Iowa, April 3, 1868.
Arkansas, April 6, 1868.
Florida, June 9, 1868.
North Carolina, July 4, 1868.
Louisiana, July 9, 1868.
South Carolina, July 9, 1868.
Alabama, July 13, 1868.
Georgia, July 21, 1868.

---

[a] New Jersey withdrew her consent to the ratification in April, 1868.
[b] Oregon withdrew her consent to the ratification October 15, 1868.
[c] Ohio withdrew her consent to the ratification in January, 1868.

The State of Virginia [a] ratified this amendment on the 8th of October, 1869; Mississippi, January 17, 1870; Texas, February 18, 1870, subsequent to the date of the proclamation of the Secretary of State.

The States of Delaware, Maryland, and Kentucky rejected the amendment.

The fifteenth article was submitted to the Legislatures of the several States, there being then thirty-seven States, by a resolution of Congress passed on the 27th of February, 1869, at the first session of the Forty-first Congress; and was ratified, according to a proclamation of the Secretary of State dated March 30, 1870, by the Legislatures of the following States:

Nevada, March 1, 1869.
West Virginia, March 3, 1869.
North Carolina, March 5, 1869.
Louisiana, March 5, 1869.
Illinois, March 5, 1869.
Michigan, March 8, 1869.
Wisconsin, March 9, 1869.
Massachusetts, March 12, 1869.
Maine, March 12, 1869.
South Carolina, March 16, 1869.
Pennsylvania, March 26, 1869.
Arkansas, March 30, 1869.
New York, April 14, 1869.[b]
Indiana, May 14, 1869.
Connecticut, May 19, 1869.
Florida, June 15, 1869.
New Hampshire, July 7, 1869.
Virginia, October 8, 1869.
Vermont, October 21, 1869.
Alabama, November 24, 1869.
Missouri, January 10, 1870.
Mississippi, January 17, 1870.
Rhode Island, January 18, 1870.
Kansas, January 19, 1870.
Ohio, January 27, 1870.[c]
Georgia, February 2, 1870.
Iowa, February 3, 1870.
Nebraska, February 17, 1870.
Texas, February 18, 1870.
Minnesota, February 19, 1870.

The State of New Jersey ratified this amendment on the 21st of February, 1871, subsequent to the date of the proclamation of the Secretary of State.

The States of California, Delaware, Kentucky, Maryland, Oregon, and Tennessee rejected this amendment.

---

[a] North Carolina, South Carolina, Georgia, and Virginia had previously rejected the amendment.

[b] New York withdrew her consent to the ratification January 5, 1870.

[c] Ohio had previously rejected the amendment May 4, 1869.

Commissions, Charters and Plans of Union

1492–1754

PRIVILEGES AND PREROGATIVES GRANTED BY THEIR CATHOLIC MAJESTIES TO CHRISTOPHER COLUMBUS—1492*

FERDINAND and ELIZABETH, by the Grace of God, King and Queen of *Castile*, of *Leon*, of *Arragon*, of *Sicily*, of *Granada*, of *Toledo*, of *Valencia*, of *Galicia*, of *Majorca*, of *Minorca*, of *Sevil*, of *Sardinia*, of *Jaen*, of *Algarve*, of *Algezira*, of *Gibraltar*, of the *Canary Islands*, Count and Countess of *Barcelona*, Lord and Lady of *Biscay* and *Molina*, Duke and Duchess of *Athens* and *Neopatria*, Count and Countess of *Rousillion* and *Cerdaigne*, Marquess and Marchioness of *Oristan* and *Gociano*, *&c.*

For as much of you, *Christopher Columbus*, are going by our command, with some of our vessels and men, to discover and subdue some Islands and Continent in the ocean, and it is hoped that by God's assistance, some of the said Islands and Continent in the ocean will be discovered and conquered by your means and conduct, therefore it is but just and reasonable, that since you expose yourself to such danger to serve us, you should be rewarded for it. And we being willing to honour and favour you for the reasons aforesaid: Our will is, That you, *Christopher Columbus*, after discovering and conquering the said Islands and Continent in the said ocean, or any of them, shall be our Admiral of the said Islands and Continent you shall so discover and conquer; and that you be our Admiral, Vice-Roy, and Governour in them, and that for the future, you may call and stile yourself, D. *Christopher Columbus*, and that your sons and successors in the said employment, may call themselves Dons, Admirals, Vice-Roys, and Governours of them; and that you may exercise the office of Admiral, with the charge of Vice-Roy and Governour of the said Islands and Continent, which you and your Lieutenants shall conquer, and freely decide all causes, civil and criminal, appertaining to the said employment of Admiral, Vice-Roy, and Governour, as you shall think fit in justice, and as the Admirals of our kingdoms use to do; and that you have power to punish offenders; and you and your Lieutenants exercise the employments of Admiral, Vice-Roy, and Governour, in all things belonging to the said offices, or any of them; and that you enjoy the perquisites and salaries belonging to the said employments, and to each of them, in the same manner as the High Admiral of our kingdoms does. And by this our letter, or a copy of it signed by a *Public Notary:* We command Prince *John*, our most dearly beloved Son, the Infants, Dukes, Prelates, Marquesses, Great Masters and Military Orders, Priors, Commendaries, our Counsellors, Judges, and other Officers of

* Hazard's Historical Collections of State Papers, I. 1–6.

Justice whatsoever, belonging to our Household, Courts, and Chancery, and Constables of Castles, Strong Houses, and others; and all Corporations, Bayliffs, Governours, Judges, Commanders, Sea Officers; and the Aldermen, Common Council, Officers, and Good People of all Cities, Lands, and Places in our Kingdoms and Dominions, and in those you shall conquer and subdue, and the captains, masters, mates, and other officers and sailors, our natural subjects now being, or that shall be for the time to come, and any of them, that when you shall have discovered the said Islands and Continent in the ocean; and you, or any that shall have your commission, shall have taken the usual oath in such cases, that they for the future, look upon you as long as you live, and after you, your son and heir, and so from one heir to another forever, as our Admiral on our said Ocean, and as Vice-Roy and Governour of the said Islands and Continent, by you, *Christopher Columbus*, discovered and conquered: and that they treat you and your Lieutenants, by you appointed, for executing the employments of Admiral, Vice-Roy, and Governour, as such in all respects, and give you all the perquisites and other things belonging and appertaining to the said offices; and allow, and cause to be allowed you, all the honours, graces, concessions, prehaminences, prerogatives, immunities, and other things, or any of them which are due to you, by virtue of your commands of Admiral, Vice-roy, and Governour, and to be observed completely, so that nothing be diminished; and that they make no objection to this, or any part of it, nor suffer it to be made; forasmuch as we from this time forward, by this our letter, bestow on you the employments of Admiral, Vice-Roy, and perpetual Governour forever; and we put you into possession of the said offices, and of every of them, and full power to use and exercise them, and to receive the perquisites and salaries belonging to them, or any of them, as was said above. Concerning all which things, if it be requisite, and you shall desire it, We command our Chancellour, Notaries, and other Officers, to pass, seal, and deliver to you, our Letter of Privilege, in such form and legal manner, as you shall require or stand in need of. And that none of them presume to do any thing to the contrary, upon pain of our displeasure, and forfeiture of 30 ducats for each offence. And we command him, who shall show them this our Letter, that he summon them to appear before us at our Court, where we shall then be, within fifteen days after such summons, under the said penalty. Under which same, we also command any Public Notary whatsoever, that he give to him that shows it him, a certificate under his seal, that we may know how our command is obeyed.

Given at *Granada*, on the 30th of April, in the year of our Lord, 1492.—

I, The King, I, The Queen.

By their Majesties Command,

John Coloma,

Secretary to the King and Queen.

Entered according to order.

Roderick. Doctor.
Sebastian Dolona,
Francis de Madrid,
Councellors.

Registered

BULL OF POPE ALEXANDER CONCEDING AMERICA TO SPAIN—1493*

EXEMPLAR BULLE *seu Donationis Authoritate cujus, Epsicopus Romanus* ALEXANDER, *ejus nominis Sextus, concessit et donavit* CASTELLE *Regibus et suis successoribus, Regiones et Insulas Novi Orbis in Oceano occidentali Hispanorum navigationibus repertas.*

ALEXANDER *Episcopus, Servus Servorum Dei, Charissimo in Christo Filio, Ferdinando Regi, et Charissimæ in Christo Filiæ* Elizabeth *Reginæ Castellæ, Legionis, Arragonum, Siciliæ, et Granatæ, Illustribus, Salutem et Apostolicam Benedictionem.*

INTER cætera Divinæ Majestati bene placita opera et cordis nostri desiderabilia, illud profecto potissimum existit, ut Fides Catholica et Christiana Religio nostris præsertim temporibus exaltetur, ac ubilibet amplietur ac dilatetur, animarumque salus procuretur, ac barbaræ nationes deprimantur et ad Fidem ipsam reducantur. Unde cum ad hanc Sacram *Petri* Sedem Divina favente clementia (meritis licet imparibus) evocati fuerimus, cognoscentes vos tanquam vere Catholicos Reges et Principes: Quales semper fuisse novimus, et a vobis præclare gesta, toti pæne orbi notissima demonstrant, nedum id exoptare, sed omni conatu, studio, & diligentia, nullis laboribus, nullis impensis, nullisque parcendo periculis, etiam proprium sanguinem effundendo efficere, ac omnem animum vestrum, omnesque conatus ad hoc jamdudum dedicasse, quem admodum recuperatio Regni Granatæ a Tyrannide Saracenorum hodiernis temporibus per vos, cum tanta Divini nominis gloria facta, testatur. Digne ducimur non immerito, et debemus illa vobis etiam sponte, ac favorabiliter concedere, per quæ hujusmodi sanctum ac laudabile ab immortali Deo acceptum propositum, indies ferventiori animo ad ipsus Dei honorem et Imperii Christiani propagationem, prosequi valeatis. Sane accepimus quod vos qui dudum animum proposueratis aliquas Insulas et Terras firmas remotas et incognitas, ac per alios hactenus non repertas, quærere et invenire, ut illarum incolas et habitatores ad colendum redemptorem nostrum et fidem Catholicam profitendum reduceritis, hactenus in expugnatione et recuperatione ipsius, Regni Granatæ plurimum occupati, hujusmodi sanctum et laudabile propositum vestrum ad optatum finem perducere nequivistis. Sed tandem sicut Domino placuit, Regno prædicto recuperato, volentes desiderium vestrum adimplere, dilectum filium *Christophorum Colonum*, virum utique dignum, et plurimum commendatum, ac tanto negotio aptum, cum navigiis et hominibus ad similia instructis, non sine maximis laboribus, ac periculis, et expensis destinastis ut Terras

* Hazard's State Papers, I. 3–6. Peter Martyr's Decades (Edition 1555), 167.

firmas et Insulas remotas et incognitas, hujusmodi per mare ubi hactenus navigatum non fuerat, diligenter inquireret. Qui tandem (Divino auxilio facta extrema diligentia in mari oceano navigantes) certas Insulas remotissimas, et etiam Terras firmas, quæ per alios hactenus repertæ non fuerant, invenerunt. In quibus plurimæ gentes pacifice viventes, et (ut asseritur) nudi incedentes, nec carnibus vescentes, inhabitant. Et ut præfati nuntii vestri possunt opinari, gentes ipsæ in insulis, et terris prædictis habitantes, credunt unum Deum Creatorem in Cœlis esse, ac ad fidem Catholicam amplexandum et bonis moribus imbuendum, satis apti videntur: Spesque habetur, quod si erudirentur, nomen salvatoris Domini nostri Jesu Christi in terris et insulis prædictis facile induceretur. Ac præfatus *Christophorus* in una ex principalibus insulis prædictis, jam unam turrim satis munitam, in qua certos Christianos qui secum iverant, in custodiam, et ut alias insulas ac terras firmas remotas et incognitas inquirerent, posuit, construi et ædificari fecit. In quibus quidem insulis, et terris jam repertis, aurum, aromata, et aliæ quamplurimæ res prætiosæ diversi generis et diversæ qualitatis reperiuntur. Unde omnibus diligenter, et præsertim fidei Catholicæ exaltatione et dilatatione (prout decet Catholicos Reges et Principes) consideratis, more progenitorum vestrorum claræ memoriæ Regum, terras firmas et insulas prædictas, illarumque incolas et habitatores, vobis Divina favente clementia subjicere, et ad fidem Catholicam reducere proposuistis. Nos itaque hujusmodi vestrum sanctum et laudabile propositum plurimum in Domino commendantes, ac cupientes ut illud ad debitum finem perducatur, et ipsum nomen salvatoris nostri in partibus illis inducatur, hortamur vos quamplurimum in Domino, et per sacri lavacri susceptionem, qua mandatis apostolicis obligati estis, et per viscera misericordiæ Domini nostri Jesu Christi attente requirimus, ut cum expeditionem hujusmodi omino prosequi et assumere prona mente orthodoxæ fidei zelo intendatis, populos in hujusmodi insulis et terris degentes, ad Christianam religionem suscipiendum inducere velitis et debeatis, nec pericula nec labores ullo unquam tempore vos deterreant, firma spe fiduciaque conceptis, quod Deus omnipotens conatus vestros fœliciter prosequetur. Et ut tanti negotii provinciam apostolicæ gratiæ largitate donati, liberius et audacius assumatis, motu proprio non ad vestram vel alterius pro vobis super hoc nobis oblatæ petitionis instantiam sed de nostra mera liberalitate, et ex certa scientia, ac de apostolicæ potestatis plenitudine, omnes insulas et terras firmas inventas et inveniendas, detectas et detegendas versus occidentem et meridiem, fabricando et construendo unam lineam a polo arctico, scilicet septentrione, ed polum antarcticum, scilicet meridiem, sive terræ firmæ et insulæ inventæ, et inveniendæ, sint versus Indiam, aut versus aliam quamcunque partem, quæ linea distet a qualibet insularum, quæ vulgariter nuncupantur de los Azores, et Cabo Verde, centum leucis versus occidentem et meridiem. Itaque omnes insulæ et terræ firmæ repertæ et reperiendæ, detectæ et detegendæ, a præfata linea versus occidentem et meridiem, quæ per alium Regem aut Principem Christianum non fuerint actualiter possessæ usque ad diem nativitatis Domini nostri Jesu Christi proxime præteritum, a quo incipit annus præsens millesimus quadringentesimus nonagesimus tertius, quando fuerunt per nuncios et capitaneos vestros inventæ aliquæ prædictarum insularum autoritate omnipotentis Dei

nobis in beato *Petro* concessa, ac Vicariatus Jesu Christi qua fungimur in terris, cum omnibus illarum Dominiis, Civitatibus, Castris, Locis, et Villis, juribusque et jurisdictionibus ac pertinentiis universis vobis, hæredibusque, et successoribus vestris (Castellæ et Legionis Regibus) in perpetuum tenore præsentium donamus, concedimus et assignamus: Vosque, et hæredes ac successores præfatos illarum Dominos, cum plena, libera et omnimoda potestate, autoritate et jurisdictione, facimus, constituimus, et deputamus. Decernentes nihilo minus per hujusmodi donationem, concessionem, et assignationem nostram, nullo Christiano Principi, qui actualiter præfatas insulas et terras firmas possederit usque ad prædictum diem nativitatis Domini nostri Jesu Christi jus quæsitum, sublatum intelligi posse, aut auferri debere.

Et insuper mandamus vobis in virtute sanctæ obedientiæ (ut sicut pollicemini, et non dubitamus pro vestra maxima devotione et regia magnanimitate vos esse facturos) ad terras firmas et insulas prædictas, viros probos et Deum timentes, doctos, peritos, et expertos ad instruendum incolas et habitatores praefatos in fide Catholica, et bonis moribus imbuendum, destinare debeatis, omnem debitam diligentiam in præmissis adhibentes. Ac quibuscunque personis, cujuscunque dignitatis, etiam Imperalis et Regalis status, gradus, ordinis vel conditionis, sub excommunicationis latae sententiæ pœna quam eo ipso, si contra fecerint incurrant, districtus inhibemus ne ad insulas et terras firmas inventas et inveniendas, detectas et detegendas, versus occidentem et meridiem, fabricando et construendo lineam a polo artico ad polum antarcticum, sive terræ firmae et insulæ inventæ et inveniendæ sint versus Indiam aut versus aliam quamcunque partem, quæ linea distet a qualibet insularum, quæ, vulgariter nuncupantur de los Azores et Cabo Verde centum leucis versus occidentem et meridiem ut præfertur pro mercibus habendis, vel quavis alia causa accedere præsumat, absque vestra ac hæredum et successorum vestrorum prædictorum licentia speciali: Non obstantibus constitutionibus et ordinationibus apostolicis, cæterisque quibuscunque, in illo in quo imperia et dominationes et bona cuncta procedunt: confidentes quod dirigente Domino actus vestros, si hujusmodi sanctum ac laudabile propositum prosequamini, brevi tempore cum felicitate et gloria totius populi Christiani, vestri labores et conatus exitum felicissimum consequenter. Verum quia difficile foret præsentes literas ad singula quæque loca in quibus expediens fuerit deferri, volumus ac motu et scientia similibus decernimus, quod illarum transumptis manu publici notraii inde rogati subscriptis, et sigillo alicujus personæ in ecclesiastica dignitate constituæt, seu curiæ ecclesiasticæ munitis, ea prorsus fides in judicio et extra, ac alias ubilibet adhibeatur, quæ præsentibus adhiberetur si essent adhibitæ vel ostensæ.

Nulli ergo omnino hominum liceat hanc Paginam nostræ commendationis, hortationis, requisitionis, donationis, concessionis, assignationis, constitutionis, deputationis, decreti, mandati, inhibitionis, et voluntatis, infringere, vel ei ausu temerario contraire. Se quis autem hoc attentare præsumpserit, indignationem Omnipotentis Dei, ac beatorum *Petri* et *Pauli* Apostolorum ejus, se noverit incursurum.

Datum Romæ, apud Sanctum *Petrum*, anno incarnationis Dominicæ 1493, quarto nonas Maii, Pontificatus nostri anno primo.

LETTERS PATENT TO JOHN CABOT

1496, March 5, Letters Patent of King Henry VII

Pro Johanne Caboto & Filiis suis super Terra Incognita Investiganda

Rex omnibus, ad quos &c. Salutem.

Notum sit et manifestum quòd Dedimus & Concessimus, ac per Præsentes Damus & Concedimus, pro Nobis & Hæredibus nostris, Dilectis Nobis *Johanni Cabotto* Civi Venetiarum, ac *Lodovico*, *Sebastiano*, & *Sancto*, Filiis dicti *Johannis*, & eorum ac cujuslibet eorum Hæredibus & Deputatis, plenam ac liberam Auctoritatem, Facultatem & Protestatem Navigandi ad omnes Partes, Regiones, & Sinus Maris Orientalis Occidentalis, & Septentrionalis, sub Banneris Vexillis & Insigniis nostris, cum Quinque Navibus sive Navigiis, cujuscumque Portituræ & Qualitatis existant, & cum tot & tantis Nautis & Hominibus, quot & quantis in dictis Navibus secum ducre voluerint, suis & eorum propriis Sumptibus & Expensis.

Ad inveniendum, Discooperiendum & Investigandum quascumque Insulas, Patrias, Regiones sive Provincias Gentilium & Infidelium, in quacumque Parte Mundi prositas, quæ Christianis omnibus ante hæc tempora fuerunt incognitæ.

Concessimus etiam eisdem & eorum cuilibet, eorumque & cujuslibet eorum Hæredibus & Deputatis, ac Licentiam dedimus Affigendi prædictas Banneras nostras & Insignia in quacumque Villa, Oppido, Castro, Insula seu Terra firma a se noviter inventis.

Et quòd prænominati *Johannes* & Filii ejusdem, seu Hæredes & eorum Deputati quibuscumque hujusmodi Villas, Castra, Oppida & Insular a se inventas, quæ Subjugari, Occupari & Possideri possint, Subjugare, Occupare & Possidere valeant, tanquam Vasalli nostri & Gubernatores, Locatenentes & Deputati eorumdem, Dominium Titulum & Jurisdictionem eorumdem Vallarum, Castrorum, Oppidorum, Insularum, ac Terræ firmæ sic inventarum, Nobis acquirendo;

Ita tamen ut ex omnibus Fructubus, Proficuis, Emolumentis Commodis, Lucris & Obventionibus, ex hujusmodi Navigatione provenientibus, præfati *Johannes* & Filii, ac Hæredes & eorum Deputati teneantur & sint obligati Nobis, pro omno Viagio suo, totiens quotiens ad Portum nostrum Bristolliæ applicuerint, ad quem omninò applicare teneantur & sint astricti, deductis omnibus Sumptibus & Impensis necessariis per eosdem factis, *Quintam Partem totius Capitalis Lucri sui facti* sive in Mercibus sive in Pecuniis persolvere;

Dantes Nos & Concendentes eisdem suisque Hæredibus & Deputatis ut ab omni Solutione Custumarum omnium & singulorum Bonorum ac Mercium, quas secum report arint ab illis Locis sic noviter inventis, Liberi sint & Immunes.

Et insuper Dedimus & Concessimus Eisdem ac suis Hæredibus & Deputatis, quòd Terræ omnes Firmæ, Insulæ, Villæ, Oppida, Castra, & Loca quæcumque, a se inventa, quotquot ab eis inveniri

contigerit non possint ab aliis quibusvis nostris Subditis frequentari seu visitari, absque Licentia *prædictorum Johannis* & ejus Filiorum, suorumque Deputatorum, sub Pœna Amissionis tàm Navium sive Navigiorum quàm Bonorum omnium quorumcumque ad ea Loca sic inventa Navigare præsumentium;

Volentes & strictissimè Mandantes omnibus & singulis nostris Subditis, tàm in Terra quàm in Mare constitutis, ut *præfacto Johanni* & ejus Filiis ac Deputatis bonam Assistentiam faciant, & tàm in Armandis Navibus seu Navigiis quàm in Provisione Commeatûs & Victualium pro sua Pecunia emendorum, atque aliarum Rerum sibi providendarum, pro dictâ Navigatione sumendarum, suos omnes Favores & Auxilia impartiantur.

In cujus &c.

Teste Rege apud Westmonasterium, quinto die Martii.

Per ipsum Regem.

Rymer's *Fœdera*, Vol. XII., pp. 595, 596.

Also, H. Harisen, John Cabot the Discoverer of North America, p. 313.

*The Letters patents of King Henry the seuenth granted vnto Iohn Cabot and his three sonnes, Lewis, Sebastian, and Sancius for the the discouerie of new and vnknowen lands.**

HEnry, by the grace of God, king of England and France, and lord of Ireland, to all to whom these presents shall come, Greeting.

Be it knowen that we haue giuen and granted, and by these presents do giue and grant for vs and our heires, to our welbeloued Iohn Cabot citizen of Venice, to Lewis, Sebastian, and Santius, sonnes of the sayd Iohn, and to the heires of them, and euery of them, and their deputies, full and free authority, leaue, and power to saile to all parts, countreys, and seas of the East, of the West, and of the North, vnder our banners and ensignes, with fiue ships of what burthen or quantity soeuer they be, and as many mariners or men as they will haue with them in the sayd ships, vpon their owne proper costs and charges, to seeke out, discouer, and finde whatsoeuer isles, countreys, regions or prouinces of the heathen and infidels whatsoeuer they be, and in what part of the world soeuer they be, which before this time haue bene vnknowen to all Christians: we haue granted to them, and also to euery of them, the heires of them, and euery of them, and their deputies, and haue giuen them licence to set vp our banners and ensignes in euery village, towne, castle, isle, or maine land of them newly found. And that the aforesayd Iohn and his sonnes, or their heires and assignes may subdue, occupy and possesse all such townes, cities, castles and isles of them found, which they can subdue, occupy and possesse, as our vassals, and lieutenants, getting vnto vs the rule, title, and iurisdiction of the same villages, townes, castles, & firme land so found. Yet so that the aforesayd Iohn, and his sonnes and heires, and their deputies, be holden and bounden of all the fruits, profits, gaines, and commodities growing of such nauigation, for euery their voyage, as often as they shall arriue at our port of Bristoll (at the which port they shall be bound

* Richard Hakluyt, Principale Navigations, (1509).

and holden onely to arriue) all maner of necessary costs and charges by them made, being deducted, to pay vnto vs in wares or money the fift part of the capitall gaine so gotten. We giuing and granting vnto them and to their heires and deputies, that they shall be free from all paying of customes of all and singular such merchandize as they shall be free from all paying of customes of all and singular they shall bring with them from those places so newlie found.

And moreouer, we haue giuen and granted to them, their heires and deputies, that all the firme lands, isles, villages, townes, castles and places whatsoeuer they be that they shall chance to finde, may not of any other of our subjects be frequented or visited without the licence of the foresayd Iohn and his sonnes, and their deputies, vnder payne of forfeiture as well of their ships as of all and singular goods of all them that shall presume to saile to those places so found. Willing, and most straightly commanding all and singular our subjects as well on land as on sea, appointed officers, to giue good assistance to the aforesaid Iohn, and his sonnes and deputies, and that as well in arming and furnishing their ships or vessels, as in prouision of quietnesse, and in buying of victuals for their money, and all other things by them to be prouided necessary for the sayd nauigation, they do giue them all their helpe and fauour. In witnesse whereof we haue caused to be made these our lettres patents. Witnesse our selfe at Westminister, the fift day of March, in the eleuenth yeere of our reigne.—

SECOND CABOT PATENT

REFERENCES

Letters Patent. February 3, 1498.
Latin text in Harrise, John and Sebastian Cabot. (1896.) pp. 393, 394.
In English—
Harrise, Jean and Sebastian Cabot. (Paris, 1882.) pp. 327, 328.
Biddle, Richard. A Memoir of Sebastian Cabot. (Phila., 1831.) pp. 74, 75.
Beazley, John and Sebastian Cabot. pp. 95, 96.

LETTERS PATENT TO SIR HUMFREY GYLBERTE[a]

JUNE 11, 1578

Elizabeth by the grace of God Queene of England, &c. To all people to whom these presents shall come, greeting.

Know ye that of our especiall grace, certaine science and meere motion, we have given and granted, and by these presents for us, our heires and successours, doe give and graunt to our trustie and welbeloved servaunt Sir Humphrey Gilbert of Compton, in our castle of Devonshire Knight, and to his heires and assignes for ever, free libertie and licence from time to time, and at all times for ever hereafter, to discover, finde, search out, and view such remote, heathen and barbarous lands, countreys and territories not actually possessed of any Christian prince or people, as to him, his heirs & assignes, and to every or any of them, shall seeme good: and the fame to have, hold, occupie and enjoy to him, his heires and assignes for ever, with all commodities, iurisdictions, and royalties both by sea and land; and the said sir Humfrey and all such as from time to time by licence of us, our heiress and successours, shall goe and travell thither, to inhabite or remaine there, to build and fortifie at the discretion of the sayde Sir Humfrey, and of his heires and assignes, the statutes or actes of Parliament made against Fugitives, or against such as shall depart, remaine or continue out of our Realme of England without licence, or any other acte, statute, lawe or matter whatsoever to the contrary in any wise notwithstanding. And wee doe likewise by these presents, for us, our heires and successours, give full authoritie and power to the saide Sir Humfrey, his heires and assignes, and every of them, that hee and they, and every of any of them, shall and may at all and every time and times hereafter, have, take and lead in the same voyages, to travell thitherward, and to inhabite there with him, and every or any of them, such and so many of our subjects as shall willingly accompany him and them, and every or any of them, with sufficient shipping and furniture for their transportations, so that none of the same persons, nor any of them be such as hereafter shall be specially restrained by us, our heires and successors. And further, that he the said Humfrey, his heires and assignes, and every or any of them shall have, hold, occupy and enjoy to him, his heires and assignes, and every of them for ever, all the soyle of all such lands, countries, & territories so to be discovered or possessed as aforesaid, and of all Cities, Castles, Townes and Villages, and places in the same, with the rites, royalties and

[a] Text in Sir Humfrey Gylberte and His Enterprise of Colonization in America. By Rev. Carlos Shafter. Publications of the Prince Society. (Boston, 1903.) pp. 95–102.

jurisdictions, as well marine as other, within the sayd lands or countreys of the seas thereunto adjoyning, to be had or used with ful power to dispose thereof, & of every part thereof in fee simple or otherwise, according to the order of the laws of England, as near as the same conveniently may be, at his, and their will & pleasure, to any person then being, or that shall remaine within the allegiance of us, our heires and successours, paying unto us for all services, dueties and demaunds, the fift part of all the oare of gold and silver, that from time to time, and at all times after such discoverie, subduing and possessing shall be there gotten: all which kands, countreys and territories, shall for ever bee holden by the said Sir Humfrey, his heires and assignes of us, our heires and successors by homage, and by the sayd payment of the sayd fift part before reserved onely for all services.

And moreover, we doe by these presents for us, our heires and successours, give and graunt licence to the sayde Sir Humfray Gilbert, his heires or assignes, and to every of them, that hee and they, and every or any of them shall, and may from time to time, and all times for ever hereafter, for his and their defence, encounter, expulse, repell and resift, as well by Sea as by land, and by all other wayes whatsoever, all and every such person and persons whatsoever, as without the special licence and liking of the sayd Sir Humfrey, and of his heires and assignes, shall attempt to inhabite within the sayd countreys, or any of them, or within the space of two hundreth leagues nerre to the place or places within such countreys as aforesayd, if they shall not bee before planted or inhabited within the limites aforesayd, with the subjects of any Christian prince, being amitie with her Majesty, where the said sir Humfrey, his heires or assignes, or any of them, or his, or their or any of their associates or companies, shall within sixe yeeres next ensuing, make their dwellings and abidings, or that shall enterprise or attempt at any time hereafter unlawfully to annoy either by Sea or land, the said sir Humfrey, his heires or assignes, or any of them, or his, or their, or any of their companies: giving and graunting by these presents, further power and authorite to the sayd sir Humfrey, his heires and assignes, and every of them from time to time, and at all times for ever hereafter to take and surprise by all maner of meanes whatsoever, all and every person and persons, with their shippes, vessels, and other goods and furniture, which without the licence of the sayd sir Humfrey, or his heires or assignes as aforesayd, shall bee found traffiquing into any harborough or harboroughs creeke or creekes within the limites aforesayde, the subjects of our Realmes and dominions, and all other persons in amitie with us, being driven by force of tempest or shipwracke onely excepted, and those persons and every of them with their ships, vessels, goods, and furniture, to detaine and possesse, as of good and lawful prize, according to the discretion of him the sayd sir Humfrey, his heires and assignes, and of every or any of them. And for uniting in more perfect league and amitie of such countreys, landes and territories so to bee possessed and inhabited as aforesayde, with our Realmes of England and Ireland, and for the better encouragement of men to this enterprise: wee doe by these presents graunt, and declare, that all such countreys so hereafter to bee possessed and inhabited as aforesayd, from thencefoorth shall bee of the allegiance of us, our heires, and successours. And wee

doe graunt to the sayd sir Humfrey, his heires and assignes, and to all and every of them, and to all and every other person and persons, being of our allegiance, whose names shall be noted or entred in some of our courts of Record, within this our Realme of England, and that with the assent of the said sir Humfrey, his heires or assignes, shall nowe in this journey for discoverie, or in the second journey for conquest hereafter, travel to such lands, countries and territories as aforesaid, and to their and every of their heires: that they and every or any of them being either borne within our sayd Realmes of England or Ireland, or within any other place within our allegiance, and which hereafter shall be inhabiting within any the lands, countreys and territories, with such licence as aforesayd, shall and may have, and enjoy all the priveleges of free denizens and persons native of England, and within our allegiance: any law, custome, or usage to the contrary notwithstanding.

And forasmuch, as upon the finding out, discovering and inhabiting of such remote lands, countreys and territories, as aforesayd, it shall be necessarie for the safetie of all men that shall adventure themselves in those journeys or voiages, to determine to live together in Christian peace and civil quietnesse each with other, whereby every one may with more pleasure and profit, enjoy that whereunto they shall attaine with great paine and perill: wee for us, our heires and successours are likewise pleased and contented, and by these presents doe give and graunt to the sayd sir Humfrey and his heires and assignes for ever, that he and they, and every or any of them, shall and may, from time to time, for ever hereafter within the sayd mentioned remote lands and countreys, and in the way by the Seas thither, and from thence, have full and meere power and authoritie to correct, punish, pardon, governe and rule by their, and every or any of their good discretions and policies, as well in causes capitall or criminall, as civill, both marine and other, all such our subjects and others, as shall from time to time hereafter adventure themselves in the sayd journeys or voyages habitative or possessive, or that shall at any time hereafter inhabite any such lands, countreys or territories as aforesayd, or that shall abide within two hundred leagues of any sayd place or places, where the sayd sir Humfrey or his heires, or assignes, or any of them, or any of his, or their associats or companies, shall inhabite within sixe yeers next ensuing the date hereof, according to such statutes, lawes and ordinances, as shall be by him the said sir Humfrey, his heires and assignes, or every, or any of them, devised or established for the better governement of the said people as aforesayd: so alwayes that the sayd statutes, lawes and ordinances may be as neere as conveniently may, agreeable to the forme of the lawes & pollicy of England: and also, that they be not against the true Christian faith or religion now professed in the Church of England, nor in any wise to withdraw any of the subjects or people of those lands or places from the allegiance of us, our heires or successours, as their immediate Soveraignes under God. And further we do by these presents for us, our heires and successours, give and graunt full power and authority to our trustie and well-beloved counsellor, sir William Cecill Knight, lord Burleigh, our high treasurer of England, and to the lord treasurer of England of us, for the time being, and to the privie counsell of us, our heires and successours, or

any foure of them, for the time being that he, they, or any foure of them, shall, and may from time to time, and at all times hereafter, under his or their handes or seales by vertue of these presents, authorize and licence the sayd sir Humfrey Gilbert, his heires and assignes, and every or any of them by him and themselves, or by their or any of their sufficient atturneys, deputies, officers, ministers, factors and servants, to imbarke and transport out of our Realmes of England and Ireland, all, or any of his or their goods, and all or any of the goods or his or their associates and companies, and every or any of them, with such other necessaries and commodities of any of our Realmes, as to the said lord treasurer or foure of the privie counsell of us, our heires, or successours for the time being, as aforesayd, shall be from time to time by his or their wisedoms or discretions thought meete and convenient for the better reliefe and supportation of him the sayd sir Humfrey, his heires and assignes, and every or any of them, and his and their, and every or any of their said associates and companies, any act, statute, lawe, or other thing to the contrary in any wise notwithstanding.

Provided alwayes, and our will and pleasure is, and wee doe hereby declare to all Christian Kings, princes and states, that if the said sir Humfrey, his heires or assignes, or any of them, or any other by their licence or appointment, shall at any time or times hereafter robbe or spoile by Sea or by land, or doe any act of unjust and unlawfull hostilitie to any of the Subjects of us, our heires, or successours, or any of the Subjects of any King, prince, ruler, governour or state being then in perfect league and amitie with us, our heires or successours: and that upon such injurie, or upon just complaint of any such prince, ruler, governour or state, or their subjects, wee, our heires or successours shall make open proclamation within any of the portes of our Realme of England commodious, that the said Sir Humfrey, his heires or assignes, or any other to whom these our Letters patents may extend, shall within the terme to be limited by such proclamations, make such restitution and satisfaction of all such injuries done, so as both we and the said Princes, or others so complayning, may holde us and themselves fully contented: And if the saide Sir Humfrey, his heires and assignes, shall not make or cause to bee made satisfaction accordingly, within such time so to be limited; that then it shall be lawfull to us, our heires and successours, to put the said Sir Humfrey, his heires and assignes, and adherents, and all the inhabitants of the said places to be discovered as is aforesaide, or any of them out of our allegiance and protection, and that from and after such time of putting out of protection the saide Sir Humfrey, and his heires, assignes, adherents and others so to be put out, and the said places within their habitation, possession and rule, shall be out of our protection and allegiance, and free for all princes and others to pursue with hostilitie as being not our Subjects, nor by us any way to be advowed, maintained or defended, nor to be holden as any of ours, nor to our protection, dominion or allegiance any way belonging, for that expresse mention, &c. In witnesse whereof, &c. Witnesse ourselfe at Westminster the 11, day of June, the twentieth yeere of our raigne. Anno Dom. 1578.

PER IPSAM REGINAM, &c.

CHARTER TO SIR WALTER RALEIGH—1584*[a]

ELIZABETH by the Grace of God of England, Fraunce and Ireland Queene, defender of the faith, &c. To all people to whome these presents shall come, greeting.

Knowe yee that of our especial grace, certaine science, and meere motion, we haue given and graunted, and by these presents for us, our heires and successors, we giue and graunt to our trustie and welbeloued seruant *Walter Ralegh*, Esquire, and to his heires assignes for euer, free libertie and licence from time to time, and at all times for euer hereafter, to discouer, search, finde out, and view such remote, heathen and barbarous lands, countries, and territories, not actually possessed of any Christian Prince, nor inhabited by Christian People, as to him, his heires and assignes, and to euery or any of them shall seeme good, and the same to haue, holde, occupie and enjoy to him, his heires and assignes for euer, with all prerogatiues, commodities, jurisdictions, royalties, priuileges, franchises, and preheminences, thereto or thereabouts both by sea and land, whatsoeuer we by our letters patents may graunt, and as we or any of our noble progenitors haue heretofore graunted to any person or persons, bodies politique or corporate: and the said *Walter Ralegh*, his heires and assignes, and all such as from time to time, by licence of us, our heires and successors, shall goe or trauaile thither to inhabite or remaine, there to build and fortifie, at the discretion of the said *Walter Ralegh*, his heires and assignes, the statutes or acte of Parliament made against fugitiues, or against such as shall depart, remaine or continue out of our Realme of England without licence, or any other statute, acte, lawe, or any ordinance whatsoeuer to the contrary in anywise notwithstanding.

And we do likewise by these presents, of our especial grace, meere motion, and certain knowledge, for us, our heires and successors, giue and graunt full authoritie, libertie and power to the said *Walter Ralegh*, his heires and assignes, and euery of them, that he and they, and euery or any of them, shall and may at all and euery time, and times hereafter, haue, take, and leade in the saide voyage, and trauaile thitherward, or to inhabit there with him, or them, and euery or any of them, such and so many of our subjects as shall willingly accompanie him or them, and euery or any of them to whom also we doe by these presents, giue full libertie and authority in that behalfe, and also to haue, take, and employ, and vse sufficient shipping and furniture for the Transportations and Nauigations in that behalfe, so that none of the same persons or any of them, be such as hereafter shall be restrained by us, our heires, or successors.

---

* Massachusetts Historical Society, *Collections*, Third Series, VIII, 117. Hakluyt Society *Publications*, 1849.

[a] This charter constitutes the first step in the work of English colonization in America. Five voyages were made under it, but without success in establishing a permanent settlement.

And further that the said *Walter Ralegh*, his heires and assignes, and euery of them, shall haue holde, occupie, and enioye to him, his heires and assignes, and euery of them for euer, all the soile of all such lands, territories, and Countreis, so to bee discouered and possessed as aforesaide, and of all such Cities, castles, townes, villages, and places in the same, with the right, royalties, franchises, and iurisdictions, as well marine as other within the saide landes, or Countreis, or the seas thereunto adioyning, to be had, or used, with full power to dispose thereof, and of euery part in fee-simple or otherwise, according to the order of the lawes of England, as neere as the same conueniently may bee, at his, and their will and pleasure, to any persons then being, or that shall remaine within the allegiance of us, our heires, and successors: reseruing always to us our heires, and successors, for all seruices, duties, and demaundes, the fift part of all the oare of golde and siluer, that from time to time, and at all times after such discouerie, subduing and possessing, shal be there gotten and obtained: All which landes, Countreis, and territories, shall for euer be holden of the said *Walter Ralegh*, his heires and assignes, of us, our heirs and successors, by homage, and by the said paiment of the said fift part, reserued onely for all services.

And moreouer, we doe by these presents, for us, our heires and successors, giue and graunt licence to the said *Walter Ralegh*, his heirs, and assignes, and euery of them, that he, and they, and euery or any of them, shall and may from time to time, and at all times for euer hereafter, for his and their defence, encounter and expulse, repell and resist as well by sea as by lande, and by all other wayes whatsoeuer, all, and every such person and persons whatsoeuer, as without the especiall liking and licence of the saide *Walter Ralegh*, and of his heires and assignes, shall attempt to inhabite within the said Countreis, or any of them, or within the space of two hundreth leagues neere to the place or places within such Countreis as aforesaide (if they shall not bee before planted or inhabited within the limits as aforesaide with the subjects of any Christian Prince being in amitie with us) where the saide *Walter Ralegh*, his heires, or assignes, or any of them, or his, or their or any of their associates or company, shall within sixe yeeres (next ensuing) make their dwellings or abidings, or that shall enterprise or attempt at any time hereafter unlawfully to annoy, either by sea or lande, the saide *Walter Ralegh*, his heirs or assignes, or any of them, or his or their, or any of his or their companies: giuing, and graunting by these presents further power and authoritie, to the said *Walter Ralegh*, his heirs and assignes, and euery of them from time to time, and at all times for euer hereafter, to take and surprise by all maner of meanes whatsoeuer, all and euery those person or persons, with their shippes, vessels, and other goods and furniture, which without the licence of the saide *Walter Ralegh*, or his heires, or assignes, as aforesaide, shalbe founde trafiquing into any harbour, or harbors, creeke, or creekes, within the limits aforesaide, (the subjects of our Realms and Dominions, and all other persons in amitie with us, trading to the *Newfound lands* for fishing as heretofore they haue commonly used, or being driuen by force of a tempest, or shipwracke onely excepted:) and those persons, and euery of them, with their shippes, vessels, goods and furniture to deteine and possesse as of good and lawfull prize, according to the discretion of him the saide

Walter Ralegh, his heires, and assignes, and euery, or any of them. And for vniting in more perfect league and amitie, of such Countreis, landes, and territories so to bee possessed and inhabited as aforesaide with our Realmes of Englande, and Ireland, and the better incouragement of men to these enterprises: we do by these presents, graunt and declare that all such Countreis, so hereafter to be possessed and inhabited as is aforesaide, from thencefoorth shall bee of the allegiance of vs, our heires and successours. And wee doe graunt to the saide *Walter Ralegh*, his heires, and assignes, and to all, and euery of them, and to all and euery other person, and persons being of our allegiance, whose names shall be noted or entred in some of our Courtes of recorde within our Realme of Englande, that with the assent of the saide *Walter Ralegh*, his heires or assignes, shall in his iourneis for discouerie, or in the iourneis for conquest, hereafter traueile to such lands, countreis and territories, as aforesaide, and to their, and to euery of their heires, that they, and every or any of them, being either borne within our saide Realmes of Englande, or Irelande, or in any other place within our allegiance, and which hereafter shall be inhabiting within any the lands, Countreis, and territories, with such licence (as aforesaide) shall and may haue all the priuiledges of free Denizens, and persons natiue of England, and within our allegiance in such like ample maner and fourme, as if they were borne and personally resident within our saide Realme of England, any lawe, custome, or vsage to the contrary notwithstanding.

And for asmuch as upon the finding out, discouering, or inhabiting of such remote lands, countreis, and territories as aforesaid, it shal be necessary for the safetie of al men, that shal aduenture them selues in those iournies or voyages, to determine to liue together in Christian peace, and ciuil quietnes ech with other, whereby euery one may with more pleasure and profit enioy that whereunto they shall attaine with great paine and perill, we for vs, our heires and successors, are likewise pleased and contented, and by these presents do giue and graunt to the said *Walter Ralegh*, his heires and assignes for ever, that hee and they, and euery or any of them, shall and may from time to time for euer hereafter, within the said mentioned remote landes and Countreis in the way by the seas thither, and from thence, haue full and meere power and authoritie to correct, punish, pardon, gouerne, and rule by their and euery or any of their good discretions and pollicies, as well in causes capital, or criminall, as ciuil, both marine and other, all such our subiects as shall from time to time aduenture themselves in the said iournies or voyages, or that shall at any time hereafter inhabite any such landes, countreis, or territories as aforesaide, or shall abide within 200. leagues of any of the saide place or places, where the saide *Walter Ralegh*, his heires or assignes, or any of them, or any of his or their associates or companies, shall inhabite within 6. yeeres next ensuing the date hereof, according to such statutes, lawes and ordinances, as shall bee by him the saide *Walter Ralegh* his heires and assignes, and euery or any of them deuised, or established, for the better government of the said people as aforesaid. So always as the said statutes, lawes, and ordinances may be as neere as conueniently may be, agreeable to the forme of the lawes, statutes, gouernement, or pollicie of England, and also so as they be not against the true Christian faith, nowe professed in the

Church of England, nor in any wise to withdrawe any of the subiects or people of those landes or places from the allegiance of vs, our heires and successours, as their immediate Soueraigne vnder God.

And further, wee doe by these presents for vs, our heires and successors, giue and graunt full power and authoritie to our trustie and welbeloued counsailer sir *William Cicill* knight, Lorde *Burghley*, our high Treasourer of England, and to the Lorde Treasourer of England, for vs, our heires and successors for the time being, and to the priuie Counsell, of us, our heirs and successours, or any foure or more of them for the time being, that hee, they, or any foure or more of them, shall and may from time to time, and at all times hereafter, vnder his or their handes or seales by vertue of these presents, authorise and licence the saide *Walter Ralegh*, his heires and assignes, and euery or any of them by him, and by themselues, or by their, or any of their sufficient Atturnies, deputies, officers, ministers, factors, and seruants, to imbarke and transport out of our Realme of England and Ireland, and the Dominions thereof all, or any of his, or their goods, and all or any the goods of his and their associats and companies, and euery or any of them, with such other necessaries and commodities of any our Realmes, as to the saide Lorde Treasourer, or foure or more of the priuie Counsaile, of vs, our heires and successors for the time being (as aforesaide) shalbe from time to time by his or their wisdomes, or discretions thought meete and conuenient, for the better reliefe and supportation of him the saide *Walter Ralegh*, his heires, and assignes, and euery or any of them, and of his or their or any of their associats and companies, any acte, statute, lawe, or other thing to the contrary in any wise notwithstanding.

Provided alwayes, and our will and pleasure is, and wee do hereby declare to all Christian kings, princes and states, that if the saide *Walter Ralegh*, his heires or assignes, or any of them, or any other by their licence or appointment, shall at any time or times hereafter, robbe or spoile by sea or by lande, or do any acte of unjust or unlawful hostilitie, to any of the subjects of vs, our heires or successors, or to any of the subjects of any the kings, princes, rulers, governors, or estates, being then in perfect league and amitie with us, our heires and successors, and that upon such injury, or upon iust complaint of any such prince, ruler, governoir, or estate, or their subiects, wee, our heires and successours, shall make open proclamation within any the portes of our Realme of England, that the saide *Walter Ralegh*, his heires and assignes, and adherents, or any to whome these our letters patents may extende, shall within the termes to be limitted, by such proclamation, make full restitution, and satisfaction of all such injuries done, so as both we and the said princes, or other so complayning, may holde vs and themselues fully contented. And that if the saide *Walter Ralegh*, his heires and assignes, shall not make or cause to be made satisfaction accordingly, within such time so to be limitted, that then it shall be lawfull to us our heires and successors, to put the saide *Walter Ralegh*, his heires and assignes and adherents, and all the inhabitants of the said places to be discouered (as is aforesaide) or any of them out of our allegiance and protection, and that from and after such time of putting out of protection the said *Walter Ralegh*, his heires, assignes and adherents, and others so to be put out,

and the said places within their habitation, possession and rule, shal be out of our allegeance and protection, and free for all princes and others, to pursue with hostilitie, as being not our subiects, nor by vs any way to be auouched, maintained or defended, nor to be holden as any of ours, nor to our protection or dominion, or allegiance any way belonging, for that expresse mention of the cleer yeerely value of the certaintie of the premisses, or any part thereof, or of any other gift, or grant by vs, or any our progenitors, or predecessors to the said *Walter Ralegh*, before this time made in these presents be not expressed, or any other grant, ordinance, prouision, proclamation, or restraint to the contrarye thereof, before this time giuen, ordained, or prouided, or any other thing, cause, or matter whatsoeuer, in any wise notwithstanding. In witness whereof, we haue caused these our letters to be made patents. Witnesse our selues, at *Westminster*, the 25. day of March, in the sixe and twentieth yeere of our Raigne.

CHARTER OF THE DUTCH WEST INDIA COMPANY—1621[a]

REFERENCES

Charter of Privileges and Exemptions of the Dutch West India Company. June 7, 1629.
Documents Relative to the Colonial History of the State of New York. Vol. II. pp. 553–557.
O'Callaghan, History of New Netherland, I, 112–120.
Modified Concessions of 1640. Doc. Relative to Col. Hist. of N. Y. Vol. I.

JUNE 3, 1621

The States-General of the United Netherlands, to all who shall see these Presents, or hear them read, Greeting.

Be it known, that we knowing the prosperity of these countries, and the welfare of their inhabitants depends principally on navigation and trade, which in all former times by the said Countries were carried on happily, and with a great blessing to all countries and kingdoms; and desiring that the aforesaid inhabitants should not only be preserved in their former navigation, traffic, and trade, but also that their trade may be encreased as much as possible in special conformity to the treaties, alliances, leagues and covenants for traffic and navigation formerly made with other princes, republics and people, which we give them to understand must be in all parts punctually kept and adhered to: And we find by experience, that without the common help, assistance, and interposition of a General Company, the people designed from hence for those parts cannot be profitably protected and mantained in their great risque from pirates, extortion and otherwise, which will happen in so very long a voyage. We have, therefore, and for several other important reasons and considerations as thereunto moving, with mature deliberation of counsel, and for highly necessary causes, found it good, that the navigation, trade, and commerce, in the parts of the West-Indies, and Africa, and other places hereafter described, should not henceforth be carried on any otherwise than by the common united strength of the merchants and inhabitants of these countries; and for that end there shall be erected one General Company, which we out of special regard to their common well-being, and to keep and preserve the inhabitants of those places in good trade and welfare, will maintain and strengthen with our Help, Favour and assistance as far as the present state and condition of this Country will admit: and moreover furnish them with a proper Charter, and with the following Priveleges and Exemptions, to wit, That for the Term of four and twenty Years, none of the Natives or Inhabitants of these countries shall be permitted to sail to or from the said lands, or to traffic on the coast and countries of *Africa* from the *Tropic* of *Cancer* to the *Cape of Good Hope*, nor in the countries of *America*, or the West-Indies, beginning

[a] Text in Historical Collections; consisting of State Papers, and Other Authentic Documents, etc. By Ebenezer Hazard. (Philadelphia, MDCCXCII), Vol. I, pp. 121–131.

at the fourth end of *Terra Nova*, by the streights of *Magellan*, *La Maire*, or any other streights and passages situated thereabouts to the streights of *Anian*, as well on the north sea as the south sea, nor on any islands situated on the one side or the other, or between both; nor in the western or southern countries reaching, lying, and between both the meridians, from the *Cape of Good Hope*, in the East, to the east end of *New Guinea*, in the West, inclusive, but in the Name of this United Company of these United Netherlands. And whoever shall presume without the consent of this Company, to sail or to traffic in any of the Places within the aforesaid Limits granted to this Company, he shall forfeit the ships and the goods which shall be found for sale upon the aforesaid coasts and lands; the which being actually seized by the aforesaid Company, shall be by them kept for their own Benefit and Behoof. And in case such ships or goods shall be sold either in other countries or havens they may touch at, the owners and partners must be fined for the value of those ships and goods: Except only, that they who before the date of this charter, shall have sailed or been sent out of these or any other countries, to any of the aforesaid coasts, shall be able to continue their trade for the sale of their goods, and come back again, or otherwise, until the expiration of this charter, if they have had any before, and not longer: Provided, that after the first of July sixteen hundred and twenty one, the day and time of this charter's commencing, no person shall be able to send any ships or goods to the places comprehended in this charter, although that before the date hereof, this Company was not finally incorporated: But shall provide therein as is becoming, against those who knowingly by fraud endeavour to frustrate our intention herein for the public good: Provided that the salt trade at *Ponte del Re* may be continued according to the conditions and instructions by us already given, or that may be given respecting it, any thing in this charter to the contrary notwithstanding.

II. That, moreover, the aforesaid Company may, in our name and authority, within the limits herein before prescribed, make contracts, engagements and alliances with the limits herein before prescribed, make contracts, engagements and alliances with the princes and natives of the countries comprehended therein, and also build any forts and fortifications there, to appoint and discharge Governors, people for war, and officers of justice, and other public officers, for the preservation of the places, keeping good order, police and justice, and in like manner for the promoting of trade; and again, others in their place to put, as they from the situation of their affairs shall see fit: Moreover, they must advance the peopling of those fruitful and unsettled parts, and do all that the service of those countries, and the profit and increase of trade shall require: and the Company shall successively communicate and transmit to us such contracts and alliances as they shall have made with the aforesaid princes and nations; and likewise the situation of the fortresses, fortifications, and settlements by them taken.

III. Saving, that they having chosen a governor in chief, and prepared instructions for him, they shall be approved, and a commission given by us, And that further, such governor in chief, as well as other deputy governors, commanders, and officers, shall be held to take an oath of allegiance to us and also to the Company.

IV. And if the aforesaid Company in any of the aforesaid places shall be cheated under the appearance of friendship, or badly treated, or shall suffer loss in trusting their money or Goods, without having restitution, or receiving payment for them, they may use the best methods in their power, according to the situation of their affairs, to obtain satisfaction.

V. And if it should be necessary for the establishment, security and defence of this trade, to take any troops with them, we will, according to the constitution of this country, and the situation of affairs furnish the said Company with such troops, provided they be paid and supported by the Company.

VI. Which troops, besides the oath already taken to us and to his excellency, shall swear to obey the commands of the said Company, and to endeavour to promote their interest to the utmost of their ability.

VII. That the provosts of the Company on shore may apprehend any of the military, that have inlisted in the service of the aforesaid company, and may confine them on board the ships in whatever city, place, or jurisdiction they may be found; provided, the provosts first inform the officers and magistrates of the cities and places where this happens.

VIII. That we will not take any ships, ordnance, or ammunition belonging to the company, for the use of this country, without the consent of the said company.

IX. We have moreover incorporated this company, and favoured them with privileges, and we give them a charter besides this, that they may pass freely with all their ships and goods without paying any toll to the United Provinces; and that they themselves may use their liberty in the same manner as the free inhabitants of the cities of this country enjoy their freedom, notwithstanding any person who is not free may be a member of this company.

X. That all the goods of this company during the eight next ensuing years, be carried out of this country to the parts of the West-Indies and Africa, and other places comprehended within the aforesaid limits, and those which they shall bring into this country, shall be from outward and home convoys; provided, that if at the expiration of the aforesaid eight years, the state and situation of these Countries will not admit of this Freedom's continuing for a longer time, the said goods, and the merchandises coming from the places mentioned in this Charter, and exported again out of these countries, and the outward convoys and licenses, during the whole time of this Charter, shall not be rated higher by us than they have formerly been rated, unless we should be again engaged in a war, in which case, all the aforesaid goods and merchandises will not be rated higher by us than they were in the last list in time of war.

XI. And that this company may be strengthened by a good government, to the greatest profit and satisfaction of all concerned, we have ordained, that the said government shall be vested in five chambers of managers; one at Amsterdam,—this shall have the management of four-ninths parts; one chamber in Zealand, for two-ninth parts; one chamber at the Maeze, for one-ninth part; one chamber in North Holland, for one-ninth-part; and the fifth chamber in Friesland, with the city and country, for one-ninth part; upon the condition entered in the record of our resolutions, and the Act past respecting

it. And the Provinces in which there are no chambers shall be accommodated with so many managers, divided among the respective chambers, as their hundred thousand guilders in this company shall entitle them to.

XII. That the chamber of Amsterdam shall consist of twenty managers; the chamber of Zealand of twelve; the chambers of Maeze and of the North Part, each of fourteen, and the chamber of Friesland, with the city and country, also of fourteen managers; if it shall hereafter appear, that this work cannot be carried on without a greater number of persons; in that case, more may be added, with the knowledge of nineteen, and our approbation, but not otherwise.

XIII. And the States of the respective United Provinces are authorized, to lay before their High Mightinesses' ordinary deputies, or before the magistrates of the cities of these Provinces, any order for registering the members, together with the election of managers, if they find they can do it according to the constitution of their Provinces. Moreover, that no person in the chamber of Amsterdam shall be chosen a manager who has not of his own in the funds of the company, the sum of five thousand guilders; and the Chamber of Zealand four thousand guilders, and the chamber of Maeze, of the North Part, and of Friesland, with the city and country, the like sum of four thousand guilders.

XIV. That the first managers shall serve for the term of six years, and then one-third part of the number of managers shall be changed by lot; and two years after a like third part, and the two next following years, the last third part; and so on successively the oldest in the service shall be dismissed; and in the place of those who go off, or of any that shall die, or for any other reason be dismissed, three others shall be nominated by the managers, both remaining and going off, together with the principal adventures in person, and at their cost, from which the aforesaid Provinces, the deputies, or the magistrates, shall make a new election of a manager, and successively supply the vacant places; and it shall be held before the principal adventurers, who have as great a concern as the respective managers.

XV. That the accounts of the furniture and outfit of the vessels, with their dependencies, shall be made up three months after the departure of the vessels, and one month after, copies shall be sent to to us, and to the respective chambers: and the state of the returns, and their sales, shall the chambers (as often as we see good, or they are required thereto by the chambers) send to us and to one another.

XVI. That evry six years they shall make a general account of all outfits and returns, together with all the gains and losses of the company; to wit, one of their business, and one of the war, each separate; which accounts shall be made public by an advertisement, to the end that every one who is interested may, upon hearing of it, attend; and if by the expiration of the seventh year, the accounts are not made out in manner aforesaid, the managers shall forfeit their commissions, which shall be appropriated to the use of the poor, and they themselves be held to render their account as before, till such time and under such penalty as shall be fixed by us respecting offenders. And notwithstanding there shall be a dividend made of the profits of the business, so long as we find that *ten per cent* shall have been gained.

XVII. No one shall, during the continuance of this charter, withdraw his capital, or sum advanced, from this company; nor shall any

new members be admitted. If at the expiration of four and twenty years it shall be found good to continue this company, or to erect a a new one, a final account and estimate shall be made by the nineteen, with our knowledge, of all that belongs to the company, and also of all their expences, and any one, after the aforesaid settlement and estimate, may withdraw his money, or continue it in the new company, in whole or in part, in the same proportion as in this; And the new company shall in such case take the remainder, and pay the members which do not think fit to continue in the company their share, at such times as the nineteen, with our knowledge and approbation, shall think proper.

XVIII. That so often as it shall be necessary to have a general meeting of the aforesaid chambers, it shall be by nineteen persons, of whom eight shall come from the chamber of Amsterdam; from Zealand, four; from the Maeze, two; from North Holland, two; from Friesland, and the city and country, two, provided, that the nineteen persons, or so many more as we shall at any time think fit, shall be deputed by us for the purpose of helping to direct the aforesaid meeting of the company.

XIX. By which general meeting of the aforesaid chambers, all the business of this Company which shall come before them shall be managed and finally settled, provided, that in case of resolving upon a war, our approbation shall be asked.

XX. The aforesaid general meeting being summoned, it shall meet to resolve when they shall fit out, and how many vessels they will send to each place, the company in general observing that no particular chamber shall undertake any thing in opposition to the foregoing resolution, but shall be held to carry the same effectually into execution. And if any chamber shall be found not following the common resolution, or contravening it, we have authorized, and by these presents do authorize, the said meeting, immediately to cause reparation to be made of every defect or contravention, wherein we, being desired, will assist them.

XXI. The said general meeting shall be held the first six years in the city of Amsterdam, and two years thereafter in Zealand, and so on from time to time in the aforesaid two places.

XXII. The managers to whom the affairs of the company shall be committed, who shall go from home to attend the aforesaid meeting or otherwise, shall have for their expences and wages, four guilders a day, besides boat and carriage hire; Provided, that those who go from one city to another, to the chambers as managers and governors, shall receive no wages or travelling charges, at the cost of the company.

XXIII. And if it should happen that in the aforesaid general meeting, any weighty matter should come before them wherein they cannot agree, or in case the vote are equally divided, the same shall be left to our decision; and whatever shall be determined upon shall be carried into execution.

XXIV. And all the inhabitants of these countries, and also of other countries, shall be notified by public advertisements within one month after the date hereof, that they may be admitted into this Company, during five months from the first of July this year, sixteen hundred and twenty one, and that they must pay the money they put into the Stock in three payments; to wit, one third part at the expiration of the aforesaid five months, and the other two-thirds

parts within three next succeeding years. In case the aforesaid general meeting shall find it necessary to prolong the time, the members shall be notified by an advertisement.

XXV. The ships returning from a voyage shall come to the place they sailed from; and if by stress of weather, the vessels which sailed out from one part shall arrive in another; as those from Amsterdam, or North Holland, in Zealand, or in the Maeze; or from Zealand, in Holland; or those from Friesland, with the city and country, in another part; each chamber shall nevertheless have the direction and management of the vessels and goods it sent out, and shall send and transport the goods to the places from whence the vessels sailed, either in the same or other vessels: Provided, that the managers of that chamber shall be held in person to find the place where the vessels and goods are arrived, and not appoint factors to do this business; but in case they shall not be in a situation for travelling, they shall commit this business to the chamber of the place where the vessels arrived.

XXVI. If any chamber has got any goods or returns from the places included within the Limits of this charter, with which another is not provided, it shall be held to send such goods to the chamber which is unprovided, on its request, according to the situation of the case, and if they have sold them, to send to another chamber for more. And in like manner, if the managers of the respective chambers have need of any persons for fitting out the vessels, or otherwise, from the cities where there are chambers or managers, they shall require and employ the managers, of this company, without making use of a factor.

XXVII. And if any of the Provinces think fit to appoint an agent to collect the money from the inhabitants, and to make a fund in any chamber, and for paying dividends, the chamber shall be obliged to give such agent access, that he may obtain information of the state of the disbursements and receipts, and of the debts; provided, that the money brought in by such agent amount to fifty thousand guilders or upwards.

XXVIII. The managers shall have for commissions one *per cent.* on the outfits and returns, besides the Prince's; and an half *per cent.* on gold and silver: which commission shall be divided; to the Chamber of Amsterdam, four-ninth parts; the Chamber of Zealand, two-ninth parts; the Maeze, one-ninth part; North Holland, one-ninth part, and Friesland, with the city and country, a like ninth part.

XXIX. Provided that they shall not receive commissions on the ordnance and the ships more than once. They shall, moreover, have no commissions on the ships, ordnance, and other things with which we shall strengthn the Company; nor on the money which they shall collect for the Company, nor on the profits they receive from the goods, nor shall they charge the Company with any expenses of traveling or provisions for those to whom they shall committ the providing a cargo, and purchasing goods necessary for it.

XXX. The book-keepers and cashiers shall have a salary paid them by the managers out of their commissions.

XXXI. The manager shall not deliver or sell to the Company, in whole or in part, any of their own ships, merchandise or goods; nor buy or cause to be bought, of the said Company, directly or indirectly, any goods or merchandize, nor have any portion or part therein, on

forfeiture of one year's commissions for the use of the poor, and the loss of Office.

XXXII. The managers shall give notice by advertisement, as often as they have a fresh importation of goods and merchandize, to the end that every one may have seasonable knowledge of it, before they proceed to a final sale.

XXXIII. And if it happens that in either Chamber, an of the managers shall get into such a situation, that he cannot make good what was entrusted to him during his administration, and in consequence thereof any loss shall happen, such Chamber shall be liable for the damage, and shall also be specially bound for their administration, which shall also be the case with all the members, who, on account of goods purchased, or otherwise, shall become debtors to the Company, and so shall be reckoned all cases relating to their stock and what may be due to the Company.

XXXIV. The managers of the respective chambers shall be responsible for their respective cashiers and book-keepers.

XXXV. That all the goods of this Company which shall be sold by weight shall be sold by one weight, to wit, that of Amsterdam; and that all such goods shall be put on board ship, or in store without paying any excise, import or weigh-money; provided, that they being sold, shall not be delivered in any other way than by weight; and provided that the impost and weigh-money shall be paid as often as they are alienated, in the same manner as other goods subject to weigh-money.

XXXVI. That the persons or goods of the managers shall not be arrested, attached or encumbered, in order to obtain from them an account of the administration of the Company, nor for the payment of the wages of those who are in the service of the Company, but those who shall pretend to take the same upon them, shall be bound to refer the matter to their ordinary judges.

XXXVII. So when any ship shall return from a voyage, the generals or commanders of the fleets, shall be obliged to come and report to us the success of the voyage of such ship or ships, within ten days after their arrival, and shall deliver and leave with us a report in writing, if the case requires it.

XXXVIII. And if it happens (which we by no means expect) that any person will, in any manner, hurt or hinder the navigation, business, trade, or traffic of this Company, contrary to the common right, and the contents of the aforesaid treaties, leagues, and covenants, they shal defend it against them, and regulate it by the instructions we have given concerning it.

XXXIX. We have moreover promised and do promise, that we will defend this Company against every person in free navigation and traffic, and assist them with a million of guilders, to be paid in five years, whereof the first two hundred thousand guilders shall be paid them when the first payment shall be made by the members; Provided that we, with half the aforesaid million of guilders, shall receive and bear profit and risque in the same manner as the other members of this Company shall.

XL. And if by a violent and continued interruption of the aforesaid navigation and traffic, the business within the limits of their Company shall be brought to an open war, we will, if the situation of this country will in any wise admit of it, give them for their assist-

ance sixteen ships of war, the least one hundred and fifty lasts burthen; with four good well sailing yachts, the least, forty lasts burthen, which shall be properly mounted and provided in all respects, both with brass and other cannon, and a proper quantity of ammunition, together with double suits of running and standing rigging, sails, cables, anchors, and other things thereto belonging, such as are proper to be provided and used in all great expeditions; upon condition, that they shall be manned, victualled, and supported at the expense of the Company, and that the Company shall be obliged to add thereto sixteen like ships of war, and four yachts, mounted and provided as above, to be used in like manner for the defence of trade and all exploits of war: Provided that all the ships of war and merchant-men (that shall be with those provided and manned as aforesaid) shall be under an admiral appointed by us according to the previous advise of the aforesaid General Company, and shall obey our commands, together with the resolutions of the Company, if it shall be necessary, in the same manner as in time of war; so notwithstanding that the merchantmen shall not unnecessarily hazard their lading.

XLI. And if it should happen that this country should be remarkably eased of its burthens, and that this Company should be laid under the grievous burthen of a war, we have further promised, and do promise, to encrease the aforesaid subsidy in such a manner as the situation of these countries will admit, and the affairs of the Company shall require.

XLII. We have moreover ordained, that in case of a war, all the prizes which shall be taken from enemies and pirates within the aforesaid limits, by the Company or their assistants; also the goods which shall be seized by virtue of our proclamation, after deducting all expenses and the damage which the Company shall suffer in taking each prize, together with the just part of his excellency the admiral, agreeable to our resolution of the first of April sixteen hundred and two; and the tenth part for the officers, sailors and soldiers, who have taken the prize, shall await the disposal of the managers of the aforesaid Company; Provided that the account of them shall be kept separate and apart from the account of trade and commerce; and that the nett proceeds of the said prizes shall be employed in fitting our ships, paying the troops, fortifications, garrisons, and like matters of war and defence by sea and land; but there shall be no distribution unless the said nett proceeds shall amount to so much that a notable share may be distributed without weakening the said defence, and after paying the expenses of the war, which shall be done separate and apart from the distributions on account of Trade: And the distribution shall be made one-tenth part for the use of the United Netherlands, and the remainder for the members of this Company, in exact proportion to the capital they have advanced.

XLIII. Provided nevertheless, that all the prizes and goods, taken by virtue of our proclamation, shall be brought in, and the right laid before the judicature of the counsellors of the admirality for the part to which they are brought, that they may take cognizance of them, and determine the legality or illegality of the said prizes: the process of the administration of the goods brought in by the Company remaining nevertheless pending, and that under a proper

inventory; and saving a revision of what may be done by the sentence of the admiralty, agreeable to the instruction given the admiralty in that behalf. Provided that the vendue-masters and other officers of the Admiralty shall not have or pretend to any right to the prizes taken by this Company, and shall not be employed respecting them.

XLIV. The managers of this Company shall solemnly promise and swear, that they will act well and faithfully in their administration, and make good and just accounts of their trade: That they in all things will consult the greatest profit of the Company, and as much as possible prevent their meeting with losses: That they will not give the principal members any greater advantage in the payments or distribution of money than the least: That they, in getting in and receiving outstanding debts, will not favour one more than another: that they for their own account will take, and, during the continuance of their administration, will continue to take such sum of money as by their charter is allotted to them; and moreover, that they will, as far as concerns them, to the utmost of their power, observe and keep, and cause to be observed and kept, all and every the particulars and articles herein contained.

XLV. All which privileges, freedoms and exemptions, together with the assistance herein before mentioned, in all their particulars and articles, we have, with full knowledge of the business, given, granted, promised and agreed to the aforesaid Company; giving, granting, agreeing and promising moreover that they shall enjoy them peaceably and freely; ordaining that the same shall be observed and kept by all the magistrates, officers and subjects of the United Nethelands, without doing anything contrary thereto directly or indirectly, either within or out of these Netherlands, on penalty of being punished both in life and goods as obstacles to the common welfare of this country, and transgressors of our ordinance: promising moreover that we will maintain and establish the Company in the things contained in this charter, in all treaties of peace, alliances and agreements with the neighboring princes, kingdoms and countries, without doing anything, or suffering any thing to be done which will weaken their establishment. Charging and expressly commanding all governors, justices, officers, magistrates and inhabitants of the aforesaid United Netherlands, that they permit the aforesaid Company and managers peaceably and freely to enjoy the full effect of this charter, agreement, and privilege, without any contradiction or impeachment to the contrary. And that none may pretend ignorance hereof, we command that the contents of this charter shall be notified by publication, or an advertisement, where, and in such manner, as is proper; for we have found it necessary for the service of this country.

Given under our Great Seal, and the Signature and Seal of our Recorder, at the Hague, on the third day of the month of June, in the year sixteen hundred and twenty one.

Was countersigned

J. MAGNUS, *Secr.*

Underneath was written,

The ordinance of the High and Mighty Lords the States General.

It was subscribed,

C. AERSSEN.

And has a Seal pendant, of red Wax, and a string of white silk.

SIR ROBERT HEATH'S PATENT 5 CHARLES 1ST

[30 Oct. 1629]*

Charles by the grace of God of England Scotland France & Ireland King Defender of the faith &c: To all to whom these present lres shall come, greeting

We have seen the inrolement of certaine of our lres patents under our great seale of England made to Sr Robert Heath Knight our Atturney Generall, bearing date at Westminster the 30. day of October in the 5 yeare of our reigne & inrolled in our Court of Chancery, & remaining upon Record among the Roles of the Said Court in these words: The king to all to whom these present &c: greeting. Whereas our beloved and faithful subject and servant Sr Robert Heath Knight our Atturney Generall, kindled with a certain laudable and pious desire as well of enlarging the Christian religion as our Empoire & encreasing the Trade & Commerce of this our kingdom: A certaine Region or Territory to bee hereafter described, in our lands in the parts of America betwixt one & thirety & 36 degrees of northerne latitude inclusively placed (yet hitherto untild, neither inhabited by ours or the subjects of any other Christian king, Prince or state But some parts of it inhabited by certain Barbarous men who have not any knowledge of the Divine Dietye) He being about to lead thither a Colonye of men large & plentifull, professing the true religion; seduously & industriously applying themselves to the culture of the sayd lands & to merchandising to be performed by industry & at his owne charges & others by his example. And in this his purpose in this affayer for our service and honour he hath given us full satisfaction, which purpose of his being soe laudable & manifestly tending to our honour, & the profit of our kingdome of England Wee with a Royal regard considering these things doe thinke meete to approve & prosecute them, for which end the sayd Sr Robert Heath hath humbly supplicated that all that Region with the Isles thereunto belonging with certain sorts of privileges & jurisdictions for the wholesome government of his Colonye & Region aforesaid & for the estate of the appurtenances may be given granted and confirmed to him, his heires & Assignes by our Royall Highnesse.

Know therefore that wee prosecuting with our Royall favor the pious & laudable purpose & desire of our aforesaid Atturney of our especiall grace certaine knowledge & meere motion, have given, granted

* The Colonial Records of North Carolina, Published under the Supervision of the Trustees of the Public Libraries, by order of the General Assembly. Collected and edited by William L. Saunders, Secretary of State. Vol. I, 1662 to 1712. Raleigh. P. M. Hale, Printer to the State. 1886.

& confirmed & by this our present charter to the said S^r^ Robert Heath Knight his heirs & assignes for ever, doe give, grant & confirme all that River or Rivelett of St Matthew on the South side & all that River or Rivelett of the great passe on the North side, & all the lands Tenements & Hereditaments lying, beeing & extending within or between the sayd Rivers by that draught or Tract to the Ocean upon the east side & soe to the west & soe fare as the Continent extends itselfe with all & every their appurtenances & alsoe all those our Islands of beayus Bahama & all other Isles & Islands lying southerly there or neare upon the foresayd continent all which lye inclusively within the degrees of 31 & 36 of Northerne latitude; And all & singular the ports & stations of shippes & the Creeks of the sea belonging to the Rivers, Islands & lands aforesaid; with the fishings of all sorts of fish, whales, sturgeons & of other Royaltyes in the sea or in the rivers moreover all veines, mines or pits either upon or conceald of Gold, Silver Jewells & precious stones & all other things whatsoever, whither of stones or metalls or any other thing or matter found or to be found in the Region Territory Isles or limitts aforesaid. And furthermore the patronages and advowsons of all churches which shall happen to be built hereafter in the said Region Territory & Isles and limitts by the increase of the religion & worship of Christ Together with all & singular these & these soe amply, Rights Jurisdictions, priviledges prerogatives Royaltyes libertyes immunityes with Royall rights & franchises whatsoever as well by sea as by land, within that Region Territory Isles & limitts aforesaid To have exercise use & enjoy in like manner as any Bishop of Durham within the Bp^ricke^ or County palatine of Durham in our kingdome of England ever heretofore had held used or enjoyed or of right ought or could have hold use or enjoy. And by the presents we make create & constitute the same S^r^ Robert Heath his heires & assignes true and absolute Lords & Proprietors of the Region & Territory aforesaid & all other the premises for us our heires & successors saveing alwaies the faith & allegiance due to us our heires & successors. To have hold possess & enjoy the said Region Isles Rivers & the rest of the premises to the said S^r^ Robert Heath Knight his heires & assignes to the sole & proper use & behoofe of him S^r^ Robert Heath Knight his heires & assignes for ever with that meaning that the said S^r^ Robert Heath his heires & assignes shall plant the premisses according to certaine instructions & directions of oures signed with our Royall hand of the date of the presents remaining with our principall Secretary to our use our heires & successors To be held of us our heires & successors Kings of England in Cheife by knights service & by paying for it to us our heires & successors one Circle of Gold formed in the fashion of a crowne of the weight of twenty Ounces with this inscription ingraved upon it Deos Coronet Opus Suum whensoever & as often as it shall happen, that we our heires or successors shall enter the said Region, & also the fifth & part of all the metall of Gold & Silver (which in English is called Gold & Silver Oare) which shall from time to time happen to be found within the foresayd limits & such a proportion of the profitts & commoditys out of the premises as are fully conteined in the instructions & declarations aforesaid.

But that the aforesaid region or Territory soe granted & described may be more illustrious by us than all the other Regions of that land & may be adorned with more ample Titles.

Know that we of our free grace certain knowledge & meere motion doe thinke fit to erect the sayd Region Territory & Isles into a Province & by the fulness of our power & Kingly Authority for us our heires & successors, we doe erect & incorporate them into a province & name the same Carolina or the province of Carolina, & the foresaid Isles the Carolarns Islands & soe we will that in all times hereafter they shall be named. And because we herebefore have ordained & made the fores[d] S[r] Robert Heath Knight true lord & proprietor of all the aforenamed Province. Furthermore know yee that we for ourselves our heires & successors doe give power to the said S[r] Robert (of whose faith prudence industry & provident circumspection we have great confidence) & to his heires & assignes for the good & happy Government of the said Province to forme make & enact & publish under the seale of the said S[r] Robert his heires & assignes what lawes soever may concerne the publicke state of the said province or the private profitt of all according to the wholesome directions of & with the counsell assent & approbation of the Freeholders of the same Province or the Major part of them who when & as often as need shall require shall by the aforesaid S[r] Robert Heath his Heires & Assignes & in that forme which to him or them shall seem best, be called together to make lawes & those to be for all men within the said province & the bounds of it for the time beeing or under his or their Government or power either sayling towards Carolana or returning from thence either outward to England or outward to any other dominion of ours whatsoever constituted by imposition of fines imprisonment or any other constraint whatsoever & we grant to the said S[r] Robert his heires & assignes free full & all kind of power by the Tenour of these presents if the qualitye of the offence requires it to punish by the losse of life or limbe by himself his heires or assignes, or by their Deputyes Lieutenants Judges Justices Magestrates Officers & ministers to be constituted & made according to the tenour & true intent of these presents duely to be executed: And also to the said S[r] Robert Heath his heires & assignes as to them shall seem most meet power of constituting & ordaining Judges & Justices Magestrates & officers whatsoever for whatsoever causes and with what power soever & in what forme by sea or by land. Alsoe crimes & all excesses whatsoever against such lawes either before judgement received or after, power of remitting releasing pardoning & abolishing; & all & singular complements of justice courts tribunalls forms of judgements & manners of processe belonging to them although there be not mention made nor expression of them in these presents which laws as aforesaid to be proclaimed & to be endowed with the most absolute firmnesse of right. we will injoyne command & order that they be inviolably observed & kept by all men the Lieges & Subjects of us our heires & successors (as farre as it may concerne them) & under the paines in them expressed & to be expressed yet soe that the foresaid lawes & ordinances be consonant to Reason and not repugnant or contrary but (as conveniently as may be done) consonant to the lawes, statutes, customes & rights of our Realme of England.

And because in the Government of soe great a Province sudden chances many times happen to which it will be necessary to apply a remedy before that the Freeholders of the sayd province can be called together to make lawes, neither will it be convenient, upon a continued title in an emergent occasion to gather together soe great a people therefore for the better Government of the sayd Province, we will & ordaine & by these presents for Us our Heires & Successors; doe grant unto the said S^r^ Robert Heath his Heires & Assignes by himself or by magistrates & officers duly constituted for that purpose (as before is sayd) shall & may have power from time to time to make & constitute wholesome & convenient Ordinances within the Province aforesaid & be kept & observed as well for the preserving the peace as for the better Government of the people there liveing; & to give publicke notice of them to all whom it doth or may concerne: which Ordinances we will that they be inviolably observed within the sayd Province under the paines expressed in them soe as the sayd Ordinances be consonant to Reason & not repugnant nor contrary, but (as conveniently as may be done) consonant to the laws, statutes & rights of our Realme of England as is aforesaid soe alsoe that the same Ordinances extend not themselves against the right or interest of any person or persons or to distrayne bind or burden in or upon his freehold goods or chattels: or to be received any where there in the same Province or the Isles aforesayd.

Moreover that New Carolana may happily increase by the multitude of people thronging thither & alsoe that they be firmely defended from the incursions of the Barbarous & of others practicall or plundering enemyes. Therefore we for ourselves our Heires & Successors at the will & pleasure of the sayd S^r^ Robert Heath his heires and assignes, doe give & grant by these presents to all men & our subjects, leiges of our heires and successors both those in present & to come (unless it shall be in an especiall manner forbidden) power, licence & libertye to build & fortifye themselves & their familyes in the sayd Province of Carolana for the publicke safety of their seats there planted, tilled & inhabited with forts castles & other fortifications, with fitting shipes alsoe & convenient furniture for transportation the statute of fugitives or any other whatsoever contrary to these premises in any wise notwithstanding. We will alsoe & for Us our Heires & successors out of our great favour we firmely comand constitute ordaine & require that the said Province be in our Allegiance & that all & every our subjects & leiges & of our heires & successors brought or to be brought into the said Province, their children either their already borne or hereafter to be borne are & shall be Naturall and leiges to us our Heires & successors & in all things shall be held, treated reputed & accounted as faithfull leiges of us, our heires & successors borne in our Kingdom of England. And alsoe that they shall possesse lands, tenements, rents services & Hereditaments whatsoever with our Kingdome of England & other our Dominions to purchase, receive, take, have, hold, buy and possesse & them to use & enjoy & alsoe then to give sell alienate & bequeath & alsoe all libertyes, franchises & priviledges of this our Realme, to have & possess freely quietly & peaceably & that they may use &

enjoy them as our leiges borne or to be borne within our Kingdom of England, without impediment, molestation or vexation, claime or grievance from us our Heires & successors whatsoever; any statute, act Ordinance or provision here upon to the contrary notwithstanding: furthermore that our subjects may be incited with a ready & cheerful mind, to undertake this expedition with the hope of gaine & the meeknesse of priviledges. Know that we out of our especiall favour, certain knowledge & meere motion doe give license & grant free power, as well to the said Sr Robert Heath Knight his Heires & assignes as to all others who shall goe from time to time to inhabite in Carolana aforesaid, all & singular their goods as well moveable as immoveable wares, merchandize alsoe weapons & warlicke instruments offensive & defensive in any ports of ours, our Heires & successors to be laded in shippes, for to be transported into the province of Corolana, by him or his, or their assignes & this without molestation by us our Heires & successors or any officers of us our Heires or successors, or farmers to us, our Heires & successors: paying notwithstanding to us, our Heires & successors all & all manner of impositions, subsidyes, customes & other Dues for the sayd things wares & merchandises soe exported as are usuall & accustomed, any statute act Ordinance or other thing whatsoever to the contrary notwithstanding. Alwaies provided that before the sayd Goodes, things & merchandises are carried to & loaded in the shippes that licence for them be desired & obtained from the High Treasurer of the Kingdome of England to us, our heires & successors, or the commissioners for our Treasurye or from six or more of the Privy Councell, of us our Heires & successors inscribed under their hands To which Treasurer Commissioners & privy Councell of us our heirs & successors or to any sixe or more of them; we for ourselves our Heires & successors have given & granted as by these presents we doe give & grant power to grant licence in the form aforesayd. And because in soe remote a Region, seated among so many barbarous nations it is probable that the incursions as well of those Barbarous as of other enemyes Pirates & Robbers may cause feare. Therefore we for ourselves our Heires & successors have given to the foresayd Sr Robert Heath Knight his heires & assignes by himself his Captains or other his officers, that all men of whatever condition, or wherever borne, being at that time in the Province of Carolana power to call to their colours, to cause Musters to make warre, to pursue enemyes & Robbers aforesaid by land & sea, even beyond the bounds of his province, and then (with Gods blessing) to overcome & to take, & being taken by right of warre to slay, or according to his pleasure to preserve, & all & every thing which doe appertaine to the right & office of a Captaine Generall or have been used to appertaine to be done & by these presents doe give full & free power as any Captaine Generall ever had.

Will will also & by this our charter doe give power, liberty and Authority to the foresayd Sr Robert Heath Knight his heires & assignes that in case of Rebellion sudden tumult or sedition, if any such shall chance to be which (God forbid) either upon the land within this Province aforesayd, or upon the wide Ocean, either

makeing a journey towards Carolana aforesayd or returning from thence, we by these presents for us our heires & successors doe give & grant power and authoritye most ample to himself or by Captaines Deputyes or other their officers authorised to this purpose under their seales, against all authors of innovations, seditions against the Government of him or them, withdrawing themselves speakers evill of the militia, renegadors, deserters_____ or any others whatsoever offending against the matter manner & discipline military shall by them be punished by law militarye soe freely and in such ample manner & forme as any Captaine Generall by the vertue of his office may or could doe.

Furthermore least the way to Honours & Dignitves may seem to be shutt & altogether barr'd up to men honestly borne, & are willing to undertake this present expedition & are desirous in soe remote and far distant a Region to deserve well of us & of our kingdomes in peace & warre for that doe for ourselves our heires & successors give full & free power to the foresayd S^r^ Robert Heath Knight his heires & assignes to confere favours graces & honours upon those well deserveing citizens that inhabit within the foresayd province & the same with whatever Titles & dignitves (provided they be not the same as are now used in England) to adorne at his pleasure alsoe to erect villages into Borowes & Borowes into Cittyes for the meritts of the inhabitants and conveniency of the places with priviledges & befitting immunitves to be erected & incorporated, & to doe all other & singular upon the premises which shall seem most convenient to him or them, although they be such which of their owne natures doe require mandates or warrant more especiall then is expressed in these presents. And because the beginnings of Colonys & all publicke goods & affayres doe want to labour under divers inconveniences & difficutyes, therefore wee favoring the beginning of this present Colonye, & that those that are molested in one thing may be relieved in another providing by our kingly care, out of our espetiall grace, certaine knowledge & moor motion, by this our charter do give and grant licence to the foresayd S^r^ Robert Heath his heires & assignes & to all the Dwellers & inhabits of Carolana aforesayd whatsoever both present & to come: That whatsoever wares and merchandises out of the growth & increase of the sayd Province by land or sea, freely to bring by himselfe or his factors or assignes into whatever port of us, our heires & successors of our kingdomes of England or Ireland & them to unlode and otherwise thereof to dispose, or if need be continually to keep for a whole yeare the sayd merchandises from being unloaded, or them againe into the same or other shippes to lode, & to export them into what Regions soever they please whither ours or others strangers. Alwayes provided that soe many & such customes impositions subsidyes & Toles & other dutyes which they are bound to pay to us, our heires and successors & onely such & the like as our other subjects for the time beeing are bound to pay, beyond what & which by noe meanes we will that the inhabitants of the aforesayd Carolana be molested or grieved.

And furthermore of our more ample & espetial favour & out of our certaine knowledge & meer motion we for ourselves our heires & successors doe grant to the foresayd S^r^ Robert Heath King his Heires

& Assignes full & absolute power and authority of makeing erecting & constituting within the foresayd province of Carolana & the Isles aforesayd soe many or such sea-ports stations of shippes creeks & other places of lodeing for shippes boats & other vessels & in soe many & in such like places & with such rights jurisdictions libertyes & priviledges belonging to the like ports as to him or them shall seeme most expedient & that all & singular shippes boates & other vessells whatsoever, for whatever cause of merchandising comeing to or goeing from the sayd Province shall be loded & unloded only at such ports as shall be erected & appointed soe by the sayd S^r^ Robert Heath his Heires or assignes any use or custome or any other thing notwithstanding. Alwaies saveing & reserveing to all our subjects of our Kingdom of England our Heires & successors liberty of fishing as well in the sea as in the creeks of the foresayd Province & priveledge to salt harden & drye fishes upon the shores of the said province; as it hath been reasonably used & enjoyed heretofore anything in these presents to the contrary notwithstanding. All which libertyes & priveledges the subjects of us our heires & successors as is afores^d^ shall enjoy yer without doeing any notable hurt or injury in any way to the afores^d^ S^r^ Robert Heath his heires & assignes or to the Dwellers or inhabitants on the ports, creeks & shores aforesayd of the same Province; & more especiall in their Trees there growing; And if any one committe any such harme or injury he shall undergoe the peril & danger of the highest displeasure of us our heires & successors & the due chastisem of the Law. And if by chance hereafter some doubts & questions may be framed about the true sence & meaning of any word clause or sentence contain'd in this our present charter we will, enjoyne & comand that alwaies & in all things that interpretation be used & shall be received in all our Courtes which shall be judged more benigne profitable & favourable to the foresayd S^r^ Robert Heath Knight his Heires & assignes & to the Dwellers & inhabitants of the foresayd Province, provided alwaies that noe interpretation be made by which the religion of the holy God & true christian, or the Allegiance due to us our heires & successors may suffer in the least any lessening prejudice or losse. Neverthelesse we will & our trust in the aforesayd S^r^ Robert Heath Knight his heires & assignes is & the aforesaid S^r^ Robert Heath Knight for himselfe, his heires executors & assignes doth agree & grant to & with us our heires & successors that the sayd S^r^ Robert Heath Knight his heires & assignes in the Province & foresayd Isles to be planted & inhabited shall soe behave themselves in all things as we by our instructions and directions signed with our Royall hand as aforesaid most espetially to instruct & direct them, shall thinke most convenient and necessary for our honour & service.

Neverthelesse alwaies provided that it shall happen the River or Rivelett or Isles aforesayd or other the premises or any part or parcell of the same to be now granted to any person or persons by us or by our deare father King James, or is now actually possessed or inhabited by any of our subjects or by the subjects of any other Christian Prince or State, that then those our letters patents & all in them conteined, soe farre as the conteine soe much of the premises soe granted, and are now so actually possessed & inhabited as is

aforesayd shall be void & of noe effect. These our letters patents or anything in them conteined to the contrary in any wise notwithstanding. And that expresse mention &c.; In witnesse whereof &c: Witnesse the King at Westminster the thirtyeth day of Oct: & y^re^ de privato sigillo And we have thought fit by these presents to exemplifye the Tenour and inrollment of our foresayd letters patents, at the request of the foresayd S^r^ Robert Heath Knight.

In Testimony whereof we have caused these our letters to be made patents witnesse our selfe at Canbury the fourth day of August in the seventh year of our Reign.

Exam: by us { Jo: Mychell et Rob: Rich } clerckes.

THE ARTICLES OF CONFEDERATION OF THE UNITED COLONIES OF NEW ENGLAND—1643-1684*

The Articles of Confederation between the Plantations under the Government of the Massachusetts, the Plantations under the Government of New Plymouth, the Plantations under the Government of Connecticut, and the Government of New Haven with the Plantations in Combination therewith:

Whereas we all came into these parts of America with one and the same end and aim, namely, to advance the Kingdom of our Lord Jesus Christ and to enjoy the liberties of the Gospel in purity with peace; and whereas in our settling (by a wise providence of God) we are further dispersed upon the sea coasts and rivers than was at first intended, so that we can not according to our desire with convenience communicate in one government and jurisdiction; and whereas we live encompassed with people of several nations and strange languages which hereafter may prove injurious to us or our posterity. And forasmuch as the natives have formerly committed sundry insolence and outrages upon several Plantations of the English and have of late combined themselves against us: and seeing by reason of those sad distractions in England which they have heard of, and by which they know we are hindered from that humble way of seeking advice, or reaping those comfortable fruits of protection, which at other times we might well expect. We therefore do conceive it our bounden duty, without delay to enter into a present Consociation amongst ourselves, for mutual help and strength in all our future concernments: That, as in nation and religion, so in other respects, we be and continue one according to the tenor and true meaning of the ensuing articles: Wherefore it is fully agreed and concluded by and between the parties or Jurisdictions above named, and they jointly and severally do by these presents agree and conclude that they all be and henceforth be called by the name of the United Colonies of New England.

2. The said United Colonies for themselves and their posterities do jointly and severally hereby enter into a firm and perpetual league of friendship and amity for offence and defence, mutual advice and succor upon all just occasions both for preserving and propagating the truth and liberties of the Gospel and for their own mutual safety and welfare.

3. It is further agreed that the Plantations which at present are or hereafter shall be settled within the limits of the Massachusetts shall be forever under the Massachusetts and shall have peculiar

* Plymouth Colony Records, IX, X; Bradford's, New Plymouth Plantation.

jurisdiction among themselves in all cases as an entire body, and that Plymouth, Connecticut, and New Haven shall each of them have like peculiar jurisdiction and government within their limits; and in reference to the Plantations which already are settled, or shall hereafter be erected, or shall settle within their limits respectively; provided no other Jurisdiction shall hereafter be taken in as a distinct head or member of this Confederation, nor shall any other Plantation or Jurisdiction in present being, and not already in combination or under the jurisdiction of any of these Confederates, be received by any of them; nor shall any two of the Confederates join in one Jurisdiction without consent of the rest, which consent to be interpreted as is expressed in the sixth article ensuing.

4. It is by these Confederates agreed that the charge of all just wars, whether offensive or defensive, upon what part or member of this Confederation soever they fall, shall both in men, provisions, and all other disbursements be borne by all the parts of this Confederation in different proportions according to their different ability in manner following, namely, that the Commissioners for each Jurisdiction from time to time, as there shall be occasion, bring a true account and number of all their males in every Plantation, or any way belonging to or under their several Jurisdictions, of what quality or condition soever they be, from sixteen years old to threescore, being inhabitants there. And that according to the different numbers which from time to time shall be found in each Jurisdiction upon a true and just account, the service of men and all charges of the war be borne by the poll: each Jurisdiction or Plantation being left to their own just course and custom of rating themselves and people according to their different estates with due respects to their qualities and exemptions amongst themselves though the Confederation take no notice of any such privilege: and that according to their different charge of each Jurisdiction and Plantation the whole advantage of the war (if it please God so to bless their endeavors) whether it be in lands, goods, or persons, shall be proportionably divided among the said Confederates.

5. It is further agreed, that if any of these Jurisdictions or any Plantation under or in combination with them, be invaded by any enemy whomsoever, upon notice and request of any three magistrates of that Jurisdiction so invaded, the rest of the Confederates without any further meeting or expostulation shall forthwith send aid to the Confederate in danger but in different proportions; namely, the Massachusetts an hundred men sufficiently armed and provided for such a service and journey, and each of the rest, forty-five so armed and provided, or any less number, if less be required according to this proportion. But if such Confederate in danger may be supplied by their next Confederates, not exceeding the number hereby agreed, they may crave help there, and seek no further for the present: the charge to be borne as in this article is expressed: and at the return to be victualled and supplied with powder and shot for their journey (if there be need) by that Jurisdiction which employed or sent for them; but none of the Jurisdictions to exceed these numbers until by a meeting of the Commissioners for this Confederation a greater aid appear necessary. And this proportion to continue till upon knowledge of greater numbers in each Jurisdiction which shall be

brought to the next meeting, some other proportion be ordered. But in any such case of sending men for present aid, whether before or after such order or alteration, it is agreed that at the meeting of the Commissioners for this Confederation, the cause of such war or invasion be duly considered: and if it appear that the fault lay in the parties so invaded then that Jurisdiction or Plantation make just satisfaction, both to the invaders whom they have injured, and bear all the charges of the war themselves, without requiring any allowance from the rest of the Confederates towards the same. And further that if any Jurisdiction see any danger of invasion approaching, and there be time for a meeting, that in such a case three magistrates of the Jurisdiction may summon a meeting at such convenient place as themselves shall think meet, to consider and provide against the threatened danger; provided when they are met they may remove to what place they please; only whilst any of these four Confederates have but three magistrates in their Jurisdiction, their requests, or summons, from any two of them shall be accounted of equal force with the three mentioned in both the clauses of this article, till there be an increase of magistrates there.

6. It is also agreed, that for the managing and concluding of all affairs proper, and concerning the whole Confederation two Commissioners shall be chosen by and out of each of these four Jurisdictions: namely, two for the Massachusetts, two for Plymouth, two for Connecticut, and two for New Haven, being all in Church-fellowship with us, which shall bring full power from their several General Courts respectively to hear, examine, weigh, and determine all affairs of our war, or peace, leagues, aids, charges, and numbers of men for war, division of spoils and whatsoever is gotten by conquest, receiving of more Confederates for Plantations into combination with any of the Confederates, and all things of like nature, which are the proper concomitants or consequents of such a Confederation for amity, offence, and defence: not intermeddling with the government of any of the Jurisdictions, which by the third article is preserved entirely to themselves. But if these eight Commissioners when they meet shall not all agree yet it [is] concluded that any six of the eight agreeing shall have power to settle and determine the business in question. But if six do not agree, that then such propositions with their reasons so far as they have been debated, be sent and referred to the four General Courts; namely, the Massachusetts, Plymouth, Connecticut, and New Haven; and if at all the said General Courts the business so referred be concluded, then to be prosecuted by the Confederates and all their members. It is further agreed that these eight Commissioners shall meet once every year besides extraordinary meetings (according to the fifth article) to consider, treat, and conclude of all affairs belonging to this Confederation, which meeting shall ever be the first Thursday in September. And that the next meeting after the date of these presents, which shall be accounted the second meeting, shall be at Boston in the Massachusetts, the third at Hartford, the fourth at New Haven, the fifth at Plymouth, the sixth and seventh at Boston; and then Hartford, New Haven, and Plymouth, and so in course successively, if in the meantime some middle place be not found out and agreed on, which may be commodious for all the Jurisdictions.

7. It is further agreed that at each meeting of these eight Commissioners, whether ordinary or extraordinary, they or six of them agreeing as before, may choose their President out of themselves whose office and work shall be to take care and direct for order and a comely carrying on of all proceedings in the present meeting: but he shall be invested with no such power or respect, as by which he shall hinder the propounding or progress of any business, or any way cast the scales otherwise than in the precedent article is agreed.

8. It is also agreed that the Commissioners for this Confederation hereafter at their meetings, whether ordinary or extraordinary, as they may have commission or opportunity, do endeavor to frame and establish agreements and orders in general cases of a civil nature, wherein all the Plantations are interested, for preserving of peace among themselves, for preventing as much as may be all occasion of war or differences with others, as about the free and speedy passage of justice in every Jurisdiction, to all the Confederates equally as to their own, receiving those that remove from one Plantation to another without due certificate, how all the Jurisdictions may carry it towards the Indians, that they neither grow insolent nor be injured without due satisfaction, lest war break in upon the Confederates through such miscarriages. It is also agreed that if any servant run away from his master into any other of these confederated Jurisdictions, that in such case, upon the ceritficate of one magistrate in the Jurisdiction out of which the said servant fled, or upon other due proof; the said servant shall be delivered, either to his master, or any other that pursues and brings such certificate or proof. And that upon the escape of any prisoner whatsoever, or fugitive for any criminal cause, whether breaking prison, or getting from the officer, or otherwise escaping, upon the certificate of two magistrates of the Jurisdiction out of which the escape is made, that he was a prisoner, or such an offender at the time of the escape, the magistrates, or some of them of that Jurisdiction where for the present the said prisoner or fugitive abideth, shall forthwith grant such a warrant as the case will bear, for the apprehending of any such person, and the delivery of him into the hands of the officer or other person who pursues him. And if there be help required, for the safe returning of any such offender, then it shall be granted to him that craves the same, he paying the charges thereof.

9. And for that the justest wars may be of dangerous consequence, especially to the smaller Plantations in these United Colonies, it is agreed that neither the Massachusetts, Plymouth, Connecticut, nor New Haven, nor any of the members of them, shall at any time hereafter begin, undertake, or engage themselves, or this Confederation, or any part thereof in any war whatsoever (sudden exigencies, with the necessary consequents thereof excepted), which are also to be moderated as much as the case will permit, without the consent and agreement of the forementioned eight Commissioners, or at least six of them, as in the sixth article is provided: and that no charge be required of any of the Confederates, in case of a defensive war, till the said Commissioners have met, and approved the justice of the war, and have agreed upon the sum of money to be levied, which sum is then to be paid by the several Confederates in proportion according to the fourth article.

10. That in extraordinary occasions, when meetings are summoned by three magistrates of any Jurisdiction, or two as in the fifth article, if any of the Commissioners come not, due warning being given or sent, it is agreed that four of the Commissioners shall have power to direct a war which cannot be delayed, and to send for due proportions of men out of each Jurisdiction, as well as six might do if all met; but not less than six shall determine the justice of the war, or allow the demands or bills of charges, or cause any levies to be made for the same.

11. It is further agreed that if any of the Confederates shall hereafter break any of these present articles, or be any other ways injurious to any one of the other Jurisdictions; such breach of agreement or injury shall be duly considered and ordered by the Commissioners for the other Jurisdictions, that both peace and this present Confederation may be entirely preserved without violation.

12. Lastly, this perpetual Confederation, and the several articles and agreements thereof being read and seriously considered, both by the General Court for the Massachusetts, and by the Commissioners for Plymouth, Connecticut, and New Haven, were fully allowed and confirmed by three of the forenamed Confederates, namely, the Massachusetts, Connecticut, and New Haven; only the Commissioners for Plymouth having no commission to conclude, desired respite until they might advise with their General Court; whereupon it was agreed and concluded by the said Court of the Massachusetts, and the Commissioners for the other two Confederates, that, if Plymouth consent, then the whole treaty as it stands in these present articles is, and shall continue, firm and stable without alteration: but if Plymouth come not in yet the other three Confederates do by these presents confirm the whole Confederation, and all the articles thereof; only in September next when the second meeting of the Commissioners is to be at Boston, new consideration may be taken of the sixth article, which concerns number of Commissioners for meeting and concluding the affairs of this Confederation to the satisfaction of the Court of the Massachusetts, and the Commissioners for the other two Confederates, but the rest to stand unquestioned.

In testimony whereof, the General Court of the Massachusetts by their Secretary, and the Commissioners for Connecticut and New Haven, have subscribed these present articles of this nineteenth of the third month, commonly called May, Anno Domini 1643.

At a meeting of the Commissioners for the Confederation held at Boston the 7th of September, it appearing that the General Court of New Plymouth and the several townships thereof have read, considered, and approved these Articles of Confederation, as appeareth by commission of their General Court bearing date the 29th of August, 1643, to Mr. Edward Winslow and Mr. William Collier to ratify and confirm the same on their behalf: we therefore, the Commissioners for the Massachusetts, Connecticut, and New Haven, do also from our several Governments subscribe unto them.

THE ALBANY PLAN—1754[a]

PLAN OF UNION ADOPTED BY THE CONVENTION AT ALBANY

It is proposed, that humble application be made for an act of Parliament of Great Britain, by virtue of which one general government may be formed in America, including all the said colonies, within and under which government each colony may retain its present constitution, except in the particulars wherein a change may be directed by the said act, as hereafter follows.

PRESIDENT-GENERAL AND GRAND COUNCIL

That the said general government be administered by a President-General, to be appointed and supported by the crown; and a Grand Council, to be chosen by the representatives of the people of the several colonies met in their respective Assemblies.

ELECTION OF MEMBERS

That within ——— months after the passing of such act, the House of Representatives that happens to be sitting within that time, or that shall be especially for that purpose convened, may and shall choose members for the Grand Council in the following proportion—that is to say:

Massachusetts Bay	7	Pennsylvania	6
New Hampshire	2	Maryland	4
Connecticut	5	Virginia	7
Rhode Island	2	North Carolina	4
New York	4	South Carolina	4
New Jersey	3		
			48

PLACE OF FIRST MEETING

——— who shall meet for the first time at the city of Philadelphia in Pennsylvania, being called by the President-General as soon as conveniently may be after his appointment.

NEW ELECTION

That there shall be a new election of the members of the Grand Council every three years; and on the death or resignation of any member, his place should be supplied by a new choice at the next sitting of the Assembly of the colony he represented.

---

[a] Sparks, Works of Benjamin Franklin, III, 36.

PROPORTION OF MEMBERS AFTER THE FIRST THREE YEARS

That after the first three years, when the proportion of money arising out of each colony to the general treasury can be known, the number of members to be chosen for each colony shall from time to time, in all ensuing elections, be regulated by that proportion, yet so as that the number to be chosen by any one province be not more than seven, nor less than two.

MEETINGS OF THE GRAND COUNCIL, AND CALL

That the Grand Council shall meet once in every year, and oftener if occasion require, at such time and place as they shall adjourn to at the last preceding meeting, or as they shall be called to meet by the President-General on any emergency, he having first obtained in writing the consent of seven of the members to such call, and sent due and timely notice to the whole.

CONTINUANCE

That the Grand Council have power to choose their speaker and shall neither be dissolved, prorogued, nor continued sitting longer than six weeks at one time, without their own consent or the special command of the crown.

MEMBERS' ALLOWANCE

That the members of the Grand Council shall be allowed for their service ten shillings sterling per diem during their session and journey to and from the place of meeting; twenty miles to be reckoned a day's journey.

ASSENT OF PRESIDENT-GENERAL AND HIS DUTY

That the assent of the President-General be requisite to all acts of the Grand Council, and that it be his office and duty to cause them to be carried into execution.

POWER OF PRESIDENT-GENERAL AND GRAND COUNCIL; TREATIES OF PEACE AND WAR

That the President-General, with the advice of the Grand Council, hold or direct all Indian treaties in which the general interest of the colonies may be concerned; and make peace or declare war with Indian nations.

INDIAN TRADE

That they make such laws as they judge necessary for regulating all Indian trade.

INDIAN PURCHASES

That they make all purchases, from Indians for the crown, of lands not now within the bounds of particular colonies, or that shall not be within their bounds when some of them are reduced to more convenient dimensions.

NEW SETTLEMENTS

That they make new settlements on such purchases, by granting lands in the King's name, reserving a quit-rent to the crown for the use of the general treasury.

LAWS TO GOVERN THEM

That they make laws for regulating and governing such new settlements till the crown shall think it fit to form them into particular governments.

RAISE SOLDIERS AND EQUIP VESSELS, &C

That they raise and pay soldiers and build forts for the defence of any of the colonies, and equip vessels of force to guard the coasts and protect the trade on the ocean, lakes, or great rivers: but they shall not impress men in any colony without the consent of the legislature.

POWER TO MAKE LAWS, LAY DUTIES, &C

That for these purposes they have power to make laws, and lay and levy such general duties, imposts, or taxes as to them shall appear most equal and just (considering the ability and other circumstances of the inhabitants in the several colonies), and such as may be collected with the least inconvenience to the people; rather discouraging luxury than loading industry with unnecessary burthens.

GENERAL TREASURER AND PARTICULAR TREASURER

That they may appoint a General Treasurer and Particular Treasurer in each government, when necessary; and from time to time may order the sums in the treasuries of each government into the general treasury, or draw on them for special payments, as they find most convenient.

MONEY, HOW TO ISSUE

Yet no money to issue but by joint orders of the President-General and Grand Council; except where sums have been appropriated to particular purposes, and the President-General is previously empowered by an act to draw such sums.

ACCOUNTS

That the general accounts shall be yearly settled and reported to the several Assemblies.

QUORUM

That a Quorum of the Grand Council, empowered to act with the President-General, do consist of twenty-five members, among whom there shall be one or more from a majority of the colonies.

LAWS TO BE TRANSMITTED

That the laws made by them for the purposes aforesaid shall not be repugnant, but, as near as may be, agreeable to the laws of England, and shall be transmitted to the King in Council for approbation as soon as may be after their passing; and if not disapproved within three years after presentation, to remain in force.

DEATH OF THE PRESIDENT-GENERAL

That in case of the death of the President-General, the Speaker of the Grand Council for the time being shall succeed, and be vested with the same powers and authorities, to continue till the King's pleasure be known.

OFFICERS, HOW APPOINTED

That all military commission officers, whether for land or sea service, to act under this general constitution, shall be nominated by the President-General; but the approbation of the Grand Council is to be obtained before they receive their commissions. And all civil officers are to be nominated by the Grand Council, and to receive the President-General's approbation before they officiate.

VACANCIES, HOW SUPPLIED

But in case of vacancy by death or removal of any officer, civil or military, under this constitution, the Governor of the province in which such vacancy happens may appoint, till the pleasure of the President-General and Grand Council can be known.

Each Colony May Defend Itself On Emergency, &c. That the particular military as well as civil establishments in each colony remain in their present state, the general constitution notwithstanding; and that on sudden emergencies any colony may defend itself, and lay the accounts of expense thence arising before the President-General and General Council, who may allow and order payment of the same, as far as they judge such accounts just and reasonable.

Organic Laws

State, Territorial, and Colonial

ALABAMA[a]

For organic acts issued before 1817 relating to the land now included within the limits of Alabama, see in this work:

Proprietary Charter of Carolina, 1663 (North Carolina, p. 2743).
Proprietary Proposals, 1663 (North Carolina, p. 2753).
Proprietary Charter of Carolina, 1665 (North Carolina, p. 2761).
Fundamental Constitutions of Carolina, 1669 (North Carolina, p. 2772).
Proprietary Charter of Georgia, 1732 (Georgia, p. 765).
Constitution of South Carolina, 1776 (South Carolina, p. 3241).
Constitution of Georgia, 1777 (Georgia, p. 777).
Constitution of South Carolina, 1778 (South Carolina, p. 3248).
Constitution of Georgia, 1789 (Georgia, p. 785).
Territory South of Ohio River, 1790 (Tennessee, p. 3413).
Territorial Government of Mississippi, 1798 (Mississippi, p. 2025).
Territorial Government of Mississippi, 1800 (Mississippi, p. 2027).
Territorial Government of Mississippi, 1808 (Mississippi, p. 2029).
Proclamation respecting Occupation of Territory, 1810 (Louisiana, p. 1375).

TERRITORIAL GOVERNMENT OF ALABAMA—1817[b]

[Fourteenth Congress, Second Session]

An Act to establish a separate Territorial Government for the eastern part of the Mississippi Territory

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all that part of the Mississippi Territory which lies within the following boundaries, to wit: Beginning at the point where the line of the thirty-first degree of north latitude intersects the Perdido River, thence east to the western boundary-line of the State of Georgia, thence along said line to the southern boundary-line to the State of Tennessee, thence west along said boundary-line to the Tennessee River, thence up the same to the mouth of Bear Creek, thence by a direct line to the northwest corner of Washington County, thence due

[a] The area of the State of Alabama was ceded to the United States by the States of Georgia and South Carolina, and by Spain. A strip of land twelve miles wide, across the northern part of the State, and adjoining the southern boundary of the State of Tennessee, ceded by the State of South Carolina, was a portion of the Territory South of the river Ohio, afterward transferred to the Mississippi Territory. The larger portion of the State, ceded by the State of Georgia, was a portion of the Mississippi Territory. The southwestern corner of the State, between the Perdido River and the State of Mississippi, and between the thirty-first parallel and the Gulf of Mexico, ceded by Spain, became a portion of the Mississippi Territory.

[b] For other statutes of an organic nature relating to Alabama subsequent to 1817, see the act to determine qualifications of officeholders, act of April 9, 1818; to define jurisdiction of courts and require officers to take oath, April 20, 1818.

south to the Gulf of Mexico, thence eastwardly, including all the islands within six leagues of the shore, to the Perdido River, and thence up the same to the beginning; shall, for the purpose of a temporary government, constitute a separate Territory, and be called "Alabama."

SEC. 2. *And be it further enacted*, That all offices which may exist, and all laws which may be in force, in said Territory, within the boundaries above described, at the time this act shall go into effect, shall continue to exist, and be in force, until otherwise provided by law. And the President of the United States shall have power to appoint a governor and secretary for the said Alabama Territory, who shall, respectively, exercise the same power, perform the same duties, and receive for their services the same compensation, as are provided for the governor and secretary of the Mississippi Territory: *Provided*, That the appointment of said governor and secretary shall be submitted to the Senate, for their advice and consent, at the next session of Congress.

SEC. 3. *And be it further enacted*, That there shall be appointed an additional judge for the Mississippi Territory, who shall reside in the eastern part thereof, and receive the same compensation as the other judges; and that the judge appointed by virtue of an act, passed the twenty-seventh day of March, one thousand eight hundred and four, for the appointment of an additional judge for the Mississippi Territory, together with the judge appointed for Madison County, and the judge to be appointed by virtue of this act, shall possess and exercise exclusive original jurisdiction in the superior courts of Washington, Baldwin, Clarke, Monroe, Montgomery, Wayne, Greene, Jackson, Mobile, Madison, and of such new counties as may be formed out of them, and shall arrange the same among themselves, from time to time: *Provided*, That no judge shall sit more than twice in succession in the same court, and that the other judges of the Mississippi Territory shall exercise, as heretofore authorized by an act of Congress, or of the territorial legislature, exclusive jurisdiction in the superior courts of the other counties. That a general court, to be composed of the judge appointed by virtue of the act of twenty-seventh of March, one thousand eight hundred and four, the judge appointed for Madison County, and the judge to be appointed by virtue of this act, or any two of them, shall be holden at Saint Stephens, commencing on the first Mondays in January and July, annually, who shall have the same power of issuing writs of error to the superior courts of the counties mentioned in this section, or which shall hereafter be formed in the eastern division of the Territory, which was given by the act for the appointment of an additional judge, passed the year one thousand eight hundred and four, to the superior court of Adams district, and which shall possess, exclusively of the courts of the several counties, the Federal jurisdiction given to the superior courts of the Territories, by an act passed the third day of March, one thousand eight hundred and five, entitled "An act to extend jurisdiction in certain cases to the territorial courts."

SEC. 4. *And be it further enacted*, That the governor, to be appointed under the authority of this act, shall, immediately after entering into office, convene, at the town of Saint Stephens, such of the members of the legislative council and house of representatives

of the Mississippi Territory, as may then be the representatives from the several counties within the limits of the Territory to be established by this act; and the said members shall constitute the legislative council and house of representatives for the aforesaid Alabama Territory, whose powers, in relation to the said Territory, shall be, until the expiration of the term for which they shall have been chosen, or until Congress shall otherwise provide, the same, in all respects, as are now possessed by the legislative council and house of representatives of the Mississippi Territory; and the said legislative council and house of representatives of the Alabama Territory, so formed, shall have power to nominate six persons to the President of the United States, three of whom shall be selected by him for members of the legislative council, in addition to the number which the said Territory may possess agreebly to the foregoing provisions of this section. The said legislative council and house of representatives shall also have power to elect a Delegate to Congress, who shall, in all respects, possess the same rights and immunities as other Delegates from Territories of the United States.

SEC. 5. *And be it further enacted*, That this act shall commence and be in force so soon as the convention, the appointment whereof has been authorized by Congress at their present session, shall have formed a constitution and State government for that part of the Mississippi Territory lying west of the Territory herein described; of which act of convention the governor of the Mississippi, for the time being, shall give immediate notice to the President of the United States, who shall thereupon forthwith proceed to the execution of the powers vested in him by the second section of this act; but in case said convention shall fail to form a constitution and State government, as aforesaid, then this act shall become null and void, except so far as relates to the third section thereof, which shall take effect, and be in force, from and after the passage of this act.

SEC. 6. *And be it further enacted*, That all persons who shall be in office, within the Territory hereby established, when the said convention shall have formed a constitution and State government, as aforesaid, shall continue to hold and exercise their offices, in all respects, as if this act had never been made; and the governor and secretary of the Mississippi Territory, for the time being, shall continue to exercise the duties of their respective offices, in relation to the Territory hereby established, until a governor and secretary shall be appointed therefor, in pursuance to this act.

SEC. 7. *And be it further enacted*, That all judicial process in the said Territory of Alabama shall be issued, and bear test, as heretofore; nor shall any suit be discontinued, or the proceedings of any cause stayed, or in any wise affected, by anything contained in this act, or in the act entitled "An act to enable the people of the western part of the Mississippi Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States."

SEC. 8. *And be it further enacted*, That the town of Saint Stephens shall be the seat of government for the said Alabama Territory, until it shall be otherwise ordered by the legislature thereof.

SEC. 9. *And be it further enacted*, That whatever balance may remain in the treasury of the Mississippi Territory, at the time when

the convention authorized to form a constitution and State government for the western part of said Territory, may have formed a constitution and State government for the same, shall be divided between the new State and Territory, according to the amount which may have been paid into said treasury from the counties lying within the limits of such State and Territory respectively.

Approved March 3, 1817.

TREATY WITH SPAIN CEDING FLORIDA—1819

[See "Florida," page 649.]

ENABLING ACT FOR ALABAMA—1819

[FIFTEENTH CONGRESS, SECOND SESSION.]

An Act to enable the people of the Alabama Territory to form a constitution and State government, and for the admission of such State into Union on an equal footing with the original States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of the Territory of Alabama be, and they are hereby, authorized to form for themselves a constitution and State government, and to assume such name as they may deem proper; and that the said Territory, when formed into a State, shall be admitted into the Union, upon the same footing with the original States, in all respects whatever.

SEC. 2. *And be it further enacted*, That the said State shall consist of all the territory included within the following boundaries, to wit: Beginning at the point where the thirty-first degree of north latitude intersects the Perdido River; thence, east, to the western boundary-line of the State of Georgia; thence, along said line, to the southern boundary-line of the State of Tennessee; thence, west, along said boundary-line, to the Tennessee River; thence, up the same, to the mouth of Bear Creek; thence, by a direct line, to the northwest corner of Washington County; thence, due south, to the Gulf of Mexico; thence, eastwardly, including all islands within six leagues of the shore, to the Perdido River; and thence, up the same, to the beginning.

SEC. 3. *And be it further enacted*, That it shall be the duty of the surveyor of the lands of the United States south of the State of Tennessee, and the surveyor of the public lands in the Alabama Territory, to run and cut out the line of demarcation, between the State of Mississippi and the State to be formed of the Alabama Territory; and if it should appear to said surveyors that so much of said line designated in the preceding section, running due south, from the northwest corner of Washington County to the Gulf of Mexico, will encroach on the counties of Wayne, Greene, or Jackson, in said State of Mississippi, then the same shall be so altered as to run in a direct line from the northwest corner of Washington County to a point on the Gulf of Mexico, ten miles east of the mouth of the river Pascagola.

SEC. 4. *And be it further enacted*, That all white male citizens of the United States, who shall have arrived at the age of twenty-one years, and have resided in said Territory three months previous to the day of election, and all persons having, in other respects, the legal qualifications to vote for representatives in the general assembly of the said Territory, be, and they are hereby, authorized to choose representatives to form a constitution, who shall be appointed among the several counties as follows:

From the county of Madison, eight representatives.
From the county of Monroe, four representatives.
From the county of Blount, three representatives.
From the county of Limestone, three representatives.
From the county of Shelby, two representatives.
From the county of Montgomery, two representatives.
From the county of Washington, two representatives.
From the county of Tuscaloosa, two repesentatives.
From the county of Lawrence, two representatives.
From the county of Franklin, two representatives.
From the county of Cotaco, two representatives.
From the county of Clark, two representatives.
From the county of Baldwin, one representative.
From the county of Cawhauba, one representative.
From the county of Conecah, one representative.
From the county of Dallas, one representative.
From the county of Marengo, one representative.
From the county of Marion, one representative.
From the county of Mobile, one representative.
From the county of Lauderdale, one representative.
From the county of Saint Clair, one representative.
From the county of Autauga, one representative.

And the election for the representatives aforesaid shall be holden on the first Monday and Tuesday in May next, throughout the several counties in the said Territory, and shall be conducted in the same manner, and under the same regulations, as prescribed by the laws of the said Territory regulating elections therein for the members of the House of Representatives.

SEC. 5. *And be it further enacted*, That the members of the convention, thus duly elected, be, and they are hereby, authorized to meet, at the town of Huntsville, on the first Monday in July next; which convention, when met, shall first determine, by a majority of the whole number elected, whether it be, or be not, expedient, at that time, to form a constitution and State government for the people within the said Territory; And if it be determined to be expedient, the convention shall be, and hereby are, authorized to form a constitution and State government: *Provided*, That the same, when formed shall be republican, and not repugnant to the principles of the ordinance of the thirteenth of July, one thousand seven hundred and eighty-seven, between the people and States of the territory northwest of the river Ohio, so far as the same has been extended to the said territory, by the articles of agreement between the United States and the State of Georgia, or of the Constitution of the United States.

SEC. 6. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the convention of the said Ter-

ritory of Alabama, when formed, for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory upon the United States.

First. That the section numbered sixteen in every township, and when such section has been sold, granted, or disposed of, other lands equivalent thereto, and most contiguous to the same, shall be granted to the inhabitants of such townships for the use of schools.

Second. That all salt-springs within the said Territory, and the lands reserved for the use of the same, together with such other lands as may, by the President of the United States, be deemed necessary and proper for working the said salt-springs, not exceeding in the whole the quantity contained in thirty-six entire sections, shall be granted to the said State, for the use of the people of the said State, the same to be used, under such terms, conditions, and regulations, as the legislature of the said State shall direct: *Provided*, The said legislature shall never sell nor lease the same for a longer term than ten years at any one time.

Third. That five per cent. of the net proceeds of the lands lying within the said Territory, and which shall be sold by Congress, from and after the first day of September, in the year one thousand eight hundred and nineteen, after deducting all expenses incident to the same, shall be reserved for making public roads, canals, and improving the navigation of rivers, of which three-fifths shall be applied to those objects within the said State, under the direction of the legislature thereof, and two-fifths to the making of a road or roads leading to the said State, under the direction of Congress.

Fourth. That thirty-six sections, or one entire township, to be designated by the Secretary of the Treasury, under the direction of the President of the United States, together with the one heretofore reserved for that purpose, shall be reserved for the use of a seminary of learning, and vested in the legislature of the said State, to be appropriated solely to the use of such seminary by the said legislature. And the Secretary of the Treasury, under the direction as aforesaid, may reserve the seventy-two sections, or two townships, hereby set apart for the support of a seminary of learning, in small tracts: *Provided*, That no tract shall consist of less than two sections: *And provided always*, That the said convention shall provide, by an ordinance irrevocable without the consent of the United States, that the people inhabitating the said Territory, do agree and declare that they forever disclaim all right and title to the waste or unappropriated lands lying within the said Territory; and that the same shall be and remain at the sole and entire disposition of the United States; and, moreover, that each and every tract of land sold by the United States, after the first day of September, in the year one thousand eight hundred and nineteen, shall be and remain exempt from any tax laid by the order, or under the authority, of the State, whether for State, county, township, parish, or any other purpose whatever, for the term of five years, from and after the respective days of the sales thereof; and that the lands belonging to citizens of the United States, residing without the said State, shall never be taxed higher than the lands belonging to persons residing therein; and that no tax shall be imposed on lands, the property of the United States; and that all navigable waters within the said State shall forever remain public highways, free to the

citizens of said State and of the United States, without any tax, duty, impost, or toll, therefor, imposed by the said State.

SEC. 7. *And be it further enacted*, That, in lieu of a section of land, provided to be reserved for the seat of government of the said Territory, by an act, entitled "An act respecting the surveying and sale of the public lands in the Alabama Territory," there be granted to the said State, for the seat of the government thereof, a tract of land containing sixteen hundred and twenty acres, and consisting of sundry fractions and a quarter-section, in sections thirty-one and thirty-two, in township sixteen, and range ten, and in sections five and six, in township fifteen, and range ten, and in sections twenty-nine and thirty, in the same township and range, lying on both sides of the Alabama and Cahawba Rivers, and including the mouth of the river Cahawba, and which heretofore has been reserved from the public sale, by order of the President of the United States.

SEC. 8. *And be it further enacted*, That, until the next general census shall be taken, the said State shall be entitled to one Representative in the House of Representatives of the United States.

SEC. 9. *And be it further enacted*, That, in case the said convention shall form a constitution and State government for the people of the Territory of Alabama, the said convention, as soon thereafter as may be, shall cause a true and attested copy of such constitution or frame of government as shall be formed or provided, to be transmitted to Congress, for its approbation.

Approved, March 2, 1819.

RESOLUTION FOR THE ADMISSION OF ALABAMA—1819

[SIXTEENTH CONGRESS, FIRST SESSION]

Resolution declaring the admission of the State of Alabama into the Union.

Whereas, in pursuance of an act of Congress, passed on the second day of March, one thousand eight hundred and nineteen, entitled "An act to enable the people of the Alabama territory to form a constitution and state government, and for the admission of such state into the Union on an equal footing with the original States," the people of the said territory did, on the second day of August, in the present year, by a convention called for that purpose, form for themselves a constitution and state government, which constitution and state government, so formed, is republican, and in conformity to the principles of the articles of compact between the original states and the people and states in the territory northwest of the river Ohio, passed on the thirteenth day of July, one thousand seven hundred and eighty-seven, so far as the same have been extended to the said territory by the articles of agreement between the United States and the state of Georgia:—

Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, That the State of Alabama shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original states, in all respects whatever.

Approved, December 14, 1819.

CONSTITUTION OF ALABAMA—1819 *

We, the people of the Alabama Territory, having the right of admission into the General Government, as a member of the Union, consistent with the Constitution and laws of the United States, by our representatives, assembled in convention at the town of Huntsville, on Monday, the fifth day of July, one thousand eight hundred and nineteen, in pursuance of an act of Congress, entitled "An act to enable the people of the Alabama Territory to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States;" in order to establish justice, insure tranquility, provide for the common defence, promote the general welfare, and secure to ourselves and our posterity the rights of life, liberty, and property, do ordain and establish the following constitution or form of government; and do mutually agree with each other to form ourselves into a free and independent State, by the name of "the State of Alabama." And we do hereby recognize, confirm, and establish the boundaries assigned to said State by the act of Congress aforesaid, "to wit: Beginning at the point where the thirty-first degree of north latitude intersects the Perdido River, thence, east, to the western boundary-line of the State of Georgia; thence, along said line, to the southern boundary-line of the State of Tennessee; thence, west, along said boundary-line, to the Tennessee River; thence, up the same, to the mouth of Bear Creek; thence, by a direct line, to the northwest corner of Washington County; thence, due south, to the Gulf of Mexico; thence, eastwardly, including all islands within six leagues of the shore, to the Perdido River; and thence, up the same, to the beginning"—subject to such alteration as is provided in the third section of said act of Congress, and subject to such enlargement as may be made by law, in consequence of any cession of territory by the United States, or either of them.

Article I

DECLARATION OF RIGHTS

That the general, great, and essential principles of liberty and free government may be recognized and established, we declare:

Section 1. That all freemen, when they form a social compact, are equal in rights; and that no man or set of men are entitled to exclusive, separate public emoluments or privileges, but in consideration of public services.

Sec. 2. All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit: and, therefore, they have at all times an inalienable and indefeasible right to alter, reform, or abolish their form of government, in such manner as they may think expedient.

---

* Verified by "The Constitution of Alabama of 1819, with amendments," in The Code of Alabama, prepared by Ormond, Bagby and Goldthwaite. Notes and Index by Semple. Montgomery, Ala. Printed by Britton and Dewolf, State Printers, 1852." pp. 28–49.

This Constitution was framed by a convention which met July 5, 1819, and adjourned August 2, 1819. It was submitted to the people.

SEC. 3. No person within this State shall, upon any pretence, be deprived of the inestimable privilege of worshipping God in the manner most agreeable to his own conscience; nor be compelled to attend any place of worship; nor shall any one ever be obliged to pay any tithes, taxes, or other rate, for the building or repairing any place of worship, or for the maintenance of any minister or ministry.

SEC. 4. No human authority ought, in any case whatever, to control or interfere with the rights of conscience.

SEC. 5. No person shall be hurt, molested, or restrained in his religious profession, sentiments, or persuasions, provided he does not disturb others in their religious worship.

SEC. 6. The civil rights, privileges, or capacities of any citizen, shall in no way be diminished or enlarged, on account of his religious principles.

SEC. 7. There shall be no establishment of religion by law; no preference shall ever be given by law to any religious sect, society, denomination, or mode of worship; and no religious test shall ever be required as a qualification to any office or public trust under this State.

SEC. 8. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

SEC. 9. The people shall be secure in their persons, houses, papers, and possessions, from unreasonable seizures or searches; and no warrant to search any place, or to seize any person or thing, shall issue without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation.

SEC. 10. In all criminal prosecutions, the accused has a right to be heard by himself and counsel; to demand the nature and cause of the accusation, and have a copy thereof; to be confronted by the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and, in all prosecutions, by indictment or information, a speedy public trial by an impartial jury of the county or district in which the offence shall have been committed; he shall not be compelled to give evidence against himself, nor shall he be deprived of his life, liberty, or property, but by due course of law.

SEC. 11. No person shall be accused, arrested, or detained, except in cases ascertained by law, and according to the forms which the same has prescribed; and no person shall be punished, but in virtue of a law, established and promulgated prior to the offence, and legally applied.

SEC. 12. No person shall, for any indictable offence, be proceeded against criminally, by information; except in cases arising in the land and naval forces, or the militia when in actual service, or, by leave of the court, for oppression or misdemeanor in office.

SEC. 13. No person shall, for the same offence, be twice put in jeopardy of life or limb; nor shall any person's property be taken or applied to public use, unless just compensation be made therefor.

SEC. 14. All courts shall be open, and every person, for an injury done him, in his lands, goods, person, or reputation, shall have remedy by due course of law, and right and justice administered, without sale, denial, or delay.

SEC. 15. No power of suspending laws shall be exercised, except by the general assembly, or its authority.

Sec. 16. Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted.

Sec. 17. All persons shall, before conviction, be bailable by sufficient securities, except for capital offences, when the proof is evident, or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

Sec. 18. The person of a debtor, when there is not strong presumption of fraud, shall not be detained in prison, after delivering up his estate for the benefit of his creditors, in such manner as shall be prescribed by law.

Sec. 19. No *ex post facto* law, nor law impairing the obligation of contracts shall be made.

Sec. 20. No person shall be attainted of treason or felony by the general assembly. No attainder shall work corruption of blood, nor forfeiture of estate.

Sec. 21. The estates of suicides shall descend or vest as in cases of natural death; if any person shall be killed by casualty, there shall be no forfeiture by reason thereof.

Sec. 22. The citizens have a right, in a peaceable manner, to assemble together for their common good, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by petition, address, or remonstrance.

Sec. 23. Every citizen has a right to bear arms in defence of himself and the State.

Sec. 24. No standing army shall be kept up without the consent of the general assembly; and, in that case, no appropriation of money for its support shall be for a longer term than one year; and the military shall, in all cases, and at all times, be in strict subordination to the civil power.

Sec. 25. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

Sec. 26. No title of nobility, or hereditary distinction, privilege, honor, or emolument, shall ever be granted or conferred in this State; nor shall any office be created, the appointment of which shall be for a longer term than during good behavior.

Sec. 27. Emigration from this State shall not be prohibited, nor shall any citizen be exiled.

Sec. 28. The right of trial by jury shall remain inviolate.

Sec. 29. No person shall be debarred from prosecuting or defending any civil cause, for or against him or herself, before any tribunal in this State, by him or herself, or counsel.

Sec. 30. This enumeration of certain rights shall not be construed to deny or disparage others retained by the people; and to guard against any encroachments on the rights herein retained, or any transgression of any of the high powers herein delegated, we declare, that everything in this article is excepted out of the general powers of government, and shall forever remain inviolate; and that all laws contrary thereto, or to the following provisions, shall remain void.

Article II

DISTRIBUTION OF POWERS

SECTION 1. The powers of the government of the State of Alabama shall be divided into three distinct departments; and each of them confided to a separate body of magistracy, to wit: Those which are legislative, to one; those which are executive, to another; and those which are judicial, to another.

SEC. 2. No person, or collection of persons, being of one of those departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

Article III

LEGISLATIVE DEPARTMENT

SECTION 1. The legislative power of this State shall be vested in two distinct branches: the one to be styled the Senate, the other the House of Representatives, and both together "the General Assembly of the State of Alabama;" and the style of their laws shall be, "*Be it enacted by the senate and house of representatives of the State of Alabama, in general assembly convened.*"

[a] SEC. 2. The members of the House of Representatives shall be chosen by the qualified electors, and shall serve for the term of [one year] from the day of the commencement of the general election, and no longer.

[a] SEC. 3. The representatives shall be chosen [every year] on the first Monday and the day following in August, until otherwise directed by law.

SEC. 4. No person shall be a representative, unless he be a white man, a citizen of the United States, and shall have been an inhabitant of this State two years next preceding his election, and the last year thereof a resident of the county, city, or town, for which he shall be chosen, and shall have attained the age of twenty-one years.

SEC. 5. Every white male person of the age of twenty-one years, or upward, who shall be a citizen of the United States, and shall have resided in this State one year next preceding an election, and the last three months within the county, city, or town, in which he offers to vote, shall be deemed a qualified elector: *Provided*, That no soldier, seaman, or marine, in the regular Army or Navy of the United States, shall be entitled to vote at any election in this State; *And provided, also*, That no elector shall be entitled to vote except in the county, city, or town (entitled to separate representation) in which he may reside at the time of the election.

SEC. 6. Electors shall, in all cases except in those of treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from the same.

SEC. 7. In all elections by the people, the electors shall vote by ballot, until the general assembly shall otherwise direct.

---

[a] This section was amended in 1846.

SEC. 8. Elections for representatives for the several counties shall be held at the place of holding their respective courts, and at such other places as may be prescribed by law: *Provided*, That when it shall appear to the general assembly that any city or town shall have a number of white inhabitants equal to the ratio then fixed, such city or town shall have a separate representation, according to the number of white inhabitants therein; which shall be retained so long as such city or town shall contain a number of white inhabitants equal to the ratio which may from time to time be fixed by law; and thereafter, and during the existence of the right of separate representation, in such city or town, elections for the county in which such city or town (entitled to such separate representation) is situated, shall not be held in such city or town; but it is understood, and hereby declared, that no city or town shall be entitled to separate representation, unless the number of white inhabitants in the county in which such city or town is situated, residing out of the limits of said city or town, be equal to the existing ratio; or unless the residuum or fraction of such city or town shall, when added to the white inhabitants of the county residing out of the limits of said city or town, be equal to the ratio fixed by law for one representative: *And provided*, That if the residuum or fraction of any city or town, entitled to separate representation, shall, when added to the residuum of the county in which it may lie, be equal to the ratio fixed by law for one representative, then the aforesaid county, city, or town, having the largest residuum, shall be entitled to such representation: *And provided, also*, That when there are two or more counties adjoining, which have residuums or fractions over and above the ratio then fixed by law, if said residuums or fractions, when added together, will amount to such ratio, in that case one representative shall be added to that county having the largest residuum.

[SEC. 9.[a] The general assembly shall, at their first meeting, and in the years one thousand eight hundred and twenty, one thousand eight hundred and twenty-three, one thousand eight hundred and twenty-six, and every six years thereafter, cause an enumeration to be made of all the inhabitants of the State, and the whole number of the representatives shall, at the first session held after making every such enumeration, be fixed by the general assembly, and apportioned among the several counties, cities, or towns, entitled to separate representation, according to their respective numbers of white inhabitants; and the said apportionment, when made, shall not be subject to alteration, until after the next census shall be taken. The house of representatives shall not consist of less than forty-four, nor more than sixty members, until the number of white inhabitants shall be one hundred thousand; and after that event, the whole number of representatives shall never be less than sixty, nor more than one hundred: *Provided, however*, That each county shall be entitled to at least one representative.]

SEC. 10. The general assembly shall, at the first session after making every such enumeration, fix by law the whole number of senators, and shall divide the State into the same number of districts, as nearly equal, in the number of white inhabitants, as may be, each of which districts shall be entitled to one senator and no more: *Provided*, That

[a] This section was amended in 1850.

the whole number of senators shall never be less than one-fourth, nor more than one-third of the whole number of representatives.

SEC. 11. When a senatorial district shall be composed of two or more counties, the counties of which such district consists, shall not be entirely separated by any county belonging to another district; and no county shall be divided in forming a district.

SEC. 12. Senators shall be chosen by the qualified electors, for the term of three years, at the same time, in the same manner, and at the same places, where they may vote for members of the house of representatives; and no person shall be a senator, unless he be a white man, a citizen of the United States, and shall have been an inhabitant of this State two years next preceding his election, and the last year thereof a resident of the district for which he shall be chosen, and shall have attained to the age of twenty-seven years.

[a] [SEC. 13. The senators chosen according to the apportionment under the census ordered to be taken in one thousand eight hundred and twenty-six, when convened, shall be divided by lot into three classes, as nearly equal as may be. The seats of the senators of the first class shall be vacated at the expiration of the first year, those of the second class at the expiration of the second year, and those of the third class at the expiration of the third year, so that one-third may be annually chosen thereafter, and a rotation thereby kept up perpetually. Such mode of classifying new additional senators shall be observed as will, as nearly as possible, preserve an equality of members in each class.]

SEC. 14. The house of representatives, when assembled, shall choose a speaker, and its other officers; and the senate shall, annually, choose a president, and its other officers; each house shall judge of the qualifications, elections, and returns, of its own members: but a contested election shall be determined in such manner as shall be directed by law.

SEC. 15. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner, and under such penalties, as each house may provide.

SEC. 16. Each house may determine the rules of its own proceedings, punish members for disorderly behavior, and, with the consent of two-thirds, expel a member; but not a second time for the same cause; and shall have all other powers necessary for a branch of the legislature of a free and independent State.

SEC. 17. Each house, during the session, may punish, by imprisonment, any person, not a member, for disrespectful or disorderly behavior in its presence, or for obstructing any of its proceedings: *Provided*, That such imprisonment shall not, at any time, exceed forty-eight hours.

SEC. 18. Each house shall keep a journal of its proceedings, and cause the same to be published immediately after its adjournment, excepting such parts as, in its judgment, may require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the desire of any two members present, be entered on the journals. Any member of either house shall have liberty to dissent from, or protest against, any act or resolution which he may think injurious

[a] This section was amended in 1846 and again in 1850.

to the public or an individual, and have the reasons of his dissent entered on the journals.

SEC. 19. Senators and representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest, during the session of the general assembly, and in going to and returning from the same; allowing one day for every twenty miles such member may reside from the place at which the general assembly is convened; nor shall any member be liable to answer for anything spoken in debate in either house, in any court or place elsewhere.

SEC. 20. When vacancies happen in either house, the governor, or the person exercising the powers of the governor, shall issue writs of election to fill such vacancies.

SEC. 21. The doors of each house shall be open, except on such occasions, as, in the opinion of the house, may require secrecy.

SEC. 22. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

SEC. 23. Bills may originate in either house, and be amended, altered, or rejected, by the other; but no bill shall have the force of a law, until on three several days it be read in each house, and free discussion be allowed thereon, unless, in case of urgency, four-fifths of the house in which the bill shall be depending may deem it expedient to dispense with this rule: and every bill, having passed both houses, shall be signed by the speaker and president of their respective houses: *Provided*, That all bills for raising revenue shall originate in the house of representatives, but the senate may amend or reject them, as other bills.

SEC. 24. Each member of the general assembly shall receive from the public treasury such compensation for his services as may be fixed by law; but no increase of compensation shall take effect during the session at which such increase shall have been made.

SEC. 25. No senator or representative shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased, during such term, except such offices as may be filled by elections by the people.

SEC. 26. No person holding any lucrative office under the United States (the office of postmaster excepted), this State, or any other power, shall be eligible to the general assembly: *Provided*, That the offices in the militia to which there is attached no annual salary, or the office of justice of the peace, or that of the quorum, or county court, while it has no salary, shall not be deemed lucrative.

SEC. 27. No person, who may hereafter be a collector or holder of public moneys, shall have a seat in either house of the general assembly, or be eligible to any office of trust or profit under this State, until he shall have accounted for, and paid into the treasury, all sums for which he may be accountable.

SEC. 28. The first election for senators and representatives shall be general throughout the State; and shall be held on the third Monday and Tuesday in September next.

[SEC. 29.[a] The first session of the general assembly shall commence on the fourth Monday in October next, and be held at the town of

[a] This section was amended in 1846.

Huntsville, and all subsequent sessions at the town of Cahawba, until the end of the first session of the general assembly to be held in the year one thousand eight hundred and twenty-five; during that session the general assembly shall have power to designate by law (to which the executive concurrence shall not be required) the permanent seat of government, which shall not thereafter be changed: *Provided, however*, That unless such designation be then made by law, the government shall continue permanently at the town of Cahawba; *And provided also*, That the general assembly shall make no appropriations, previous to the year one thousand eight hundred and twenty-five, for the building of any other State-house than that now provided for by law.]

Article IV

Executive Department

Section 1. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled the governor of the State of Alabama.

Sec. 2. The governor shall be elected by the qualified electors at the time and places when they shall respectively vote for representatives.

Sec. 3. The returns of every election for governor shall be sealed up, and transmitted to the seat of government, directed to the speaker of the house of representatives, who shall, during the first week of the session, open and publish them in the presence of both houses of the general assembly. The person having the highest number of votes shall be governor, but if two or more shall be equal and highest in votes, one of them shall be chosen governor by the joint vote of both houses. Contested elections for governor shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

Sec. 4. The governor shall hold his office for the term of two years from the time of his installation, and until his successor shall be duly qualified, but shall not be eligible for more than four years in any term of six years; he shall be at least thirty years of age, shall be a native citizen of the United States, and shall have resided in this State at least four years next preceding the day of his election.

Sec. 5. He shall, at stated times, receive a compensation for his services, which shall not be increased or diminished during the term for which he shall have been elected.

Sec. 6. He shall be commander-in-chief of the army and navy of this State, and of the militia thereof, except when they shall be called into the service of the United States. And when acting in the service of the United States, the general assembly shall fix his rank.

Sec. 7. He may require information in writing from the officers of the executive department, on any subject relating to the duties of their respective offices.

Sec. 8.[a] He may, by proclamation, on extraordinary occasions, convene the general assembly at the seat of government, or at a different place, if that shall have become, since their last adjournment, dangerous from an enemy, or from contagious disorders; in case of dis-

[a] This section was amended in 1846.

agreement between the two houses, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper, not beyond the day of the next [annual] meeting of the general assembly.

SEC. 9. He shall, from time to time, give to the general assembly information of the state of the government, and recommend to their consideration such measures as he may deem expedient.

SEC. 10. He shall take care that the laws be faithfully executed.

SEC. 11. In all criminal and penal cases, except in those of treason and impeachment, he shall have power to grant reprieves and pardons, and remit fines and forfeitures, under such rules and regulations as shall be prescribed by law. In cases of treason he shall have power, by and with the advice and consent of the senate, to grant reprieves and pardons; and he may, in the recess of the senate, respite the sentence until the end of the next session of the general assembly.

SEC. 12. There shall be a seal of this State, which shall be kept by the governor, and used by him officially, and the present seal of the Territory shall be the seal of the State, until otherwise directed by the general assembly.

SEC. 13. All commissions shall be in the name and by the authority of the State of Alabama, be sealed with the State seal, signed by the governor, and attested by the secretary of state.

SEC. 14. There shall be a secretary of state, appointed by joint vote of both houses of the general assembly, who shall continue in office during the term of two years. He shall keep a fair register of all official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before the general assembly; and shall perform such other duties as may be required of him by law.

SEC. 15. Vacancies that may happen in offices, the appointment to which is vested in the general assembly, shall be filled by the governor, during the recess of the general assembly, by granting commissions which shall expire at the end of the next session.

SEC. 16. Every bill which shall have passed both houses of the general assembly, shall be presented to the governor: If he approve, he shall sign it, but if not, he shall return it with his objections, to the house in which it shall have originated, who shall enter the objections at large upon the journals, and proceed to reconsider it; if, after such reconsideration, a majority of the whole number elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall likewise be reconsidered; if approved by a majority of the whole number elected to that house, it shall become a law: but in such cases, the votes of both houses shall be determined by yeas and nays; and the names of the members voting for or against the bill shall be entered on the journals of each house respectively: if any bill shall not be returned by the governor within five days, Sundays excepted, after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the general assembly, by their adjournment, prevent its return, in which case it shall not be a law.

SEC. 17. Every order, resolution, or vote, to which the concurrence of both houses may be necessary, except on questions of adjournment, shall be presented to the governor, and, before it shall take effect, be approved by him, or being disapproved, shall be repassed by both

houses, according to the rules and limitations prescribed in the cases of a bill.

SEC. 18. In case of the impeachment of the governor, his removal from office, death, refusal to qualify, resignation, or absence from the State, the president of the senate shall exercise all the power and authority appertaining to the office of governor, until the time pointed out by this constitution for the election of governor shall arrive, unless the general assembly shall provide by law for the election of a governor to fill such vacancy, or until the governor absent or impeached shall return or be acquitted.

SEC. 19. If, during the vacancy of the office of governor, the president of the senate shall be impeached, removed from office, refuse to qualify, resign, die, or be absent from the State, the speaker of the house of representatives shall, in like manner, administer the government.

SEC. 20. The president of the senate and speaker of the house of representatives during the time they respectively administer the government, shall receive the same compensation which the governor would have received, had he been employed in the duties of his office.

SEC. 21. The governor shall always reside, during the session of the general assembly, at the place where their session may be held, and at all other times, wherever, in their opinion, the public good may require.

SEC. 22. No person shall hold the office of governor, and any other office or commission, civil or military, either in this State, or under any State, or the United States, or any other power, at one and the same time.

SEC. 23. A State treasurer and a comptroller of public accounts shall be annually elected, by a joint vote of both houses of the general assembly.

SEC. 24. A sheriff shall be elected in each county by the qualified electors thereof, who shall hold his office for the term of three years, unless sooner removed, and who shall not be eligible to serve either as principal or deputy for the three succeeding years. Should a vacancy occur subsequent to an election, it shall be filled by the governor, as in other cases, and the person so appointed shall continue in office until the next general election, when such vacancy shall be filled by the qualified electors, and the sheriff then elected shall continue in office three years.

MILITIA

SECTION 1. The general assembly shall provide by law for organizing and disciplining the militia of this State, in such manner as they shall deem expedient, not incompatible with the Constitution and laws of the United States in relation thereto.

SEC. 2. Any person, who conscientiously scruples to bear arms, shall not be compelled to do so, but shall pay an equivalent for personal service.

SEC. 3. The governor shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, and to repel invasions.

SEC. 4. All officers of the militia shall be elected or appointed in such manner as may be prescribed by law: *Provided*, That the gen-

eral assembly shall not make any such elections or appointments, other than those of adjutants-general and quartermasters-general.

Sec. 5. The governor shall appoint his aides-de-camp; major-generals, their aides-de-camp, and all other division and staff-officers; brigadier-generals shall appoint their aides, and all other brigade staff-officers; and colonels shall appoint their regimental staff-officers.

Sec. 6. The general assembly shall fix by law the method of dividing the militia into brigades, regiments, battalions, and companies, and shall fix the rank of all staff-officers.

Article V

JUDICIAL DEPARTMENT

Section 1. The judicial power of this State shall be vested in one supreme court, circuit courts to be held in each county in the State, and such inferior courts of law and equity, to consist of not more than five members, as the general assembly may, from time to time, direct, ordain and establish.

Sec. 2. The supreme court, except in cases otherwise directed by this constitution, shall have appellate jurisdiction only, which shall be co-extensive with the State, under such restrictions and regulations, not repugnant to this constitution, as may, from time to time, be prescribed by law: *Provided*, That the supreme court shall have power to issue writs of injunction, *mandamus*, *quo warranto*, *habeas corpus*, and such other remedial and original writs as may be necessary to give it a general superintendence and control of inferior jurisdictions.

Sec. 3. Until the general assembly shall otherwise prescribe, the powers of the supreme court shall be vested in, and its duties shall be performed by, the judges of the several circuit courts within this State; and they, or a majority of them, shall hold such sessions of the supreme court, and at such times as may be directed by law: *Provided*, That no judge of the supreme court shall be appointed before the commencement of the first session of the general assembly, which shall be begun and held after the first day of January, in the year one thousand eight hundred and twenty-five.

Sec. 4. The supreme court shall be holden at the seat of government, but may adjourn to a different place, if that shall have become dangerous from an enemy or from disease.

Sec. 5. The State shall be divided into convenient circuits, and each circuit shall contain not less than three, nor more than six counties; and for each circuit there shall be appointed a judge, who shall, after his appointment, reside in the circuit for which he may be appointed.

Sec. 6. The circuit court shall have original jurisdiction in all matters, civil and criminal, within this State, not otherwise excepted in this constitution; but in civil cases, only when the matter or sum in controversy exceeds fifty dollars.

Sec. 7. A circuit court shall be held in each county in the State, at least twice in every year, and the judges of the several circuit courts may hold courts for each other, when they may deem it expedient, and shall do so when directed by law.

SEC. 8. The general assembly shall have power to establish a court or courts of chancery, with original and appellate equity jurisdiction; and until the establishment of such court or courts, the said jurisdiction shall be vested in the judges of the circuit courts respectively: *Provided*, That the judges of the several circuit courts shall have power to issue writs of injunction, returnable into the courts of chancery.

SEC. 9. The general assembly shall have power to establish, in each county within this State, a court of probate, for the granting of letters testamentary and of administration, and for orphans' business.

SEC. 10. A competent number of justices of the peace shall be appointed in and for each county, in such mode and for such term of office as the general assembly may direct. Their jurisdiction in civil cases shall be limited to causes in which the amount in controversy shall not exceed fifty dollars. And in all cases, tried by a justice of the peace, right of appeal shall be secured, under such rules and regulations as may be prescribed by law.

SEC. 11. Judges of the supreme and circuit courts, and courts of chancery, shall, at stated times, receive for their services a compensation, which shall be fixed by law, and shall not be diminished during their continuance in office; but they shall receive no fees or perquisites of office, nor hold any other office of profit or trust under this State, the United States, or any other power.

SEC. 12.[a] Chancellors, judges of the supreme court, [judges of the circuit courts, and judges of the inferior courts,] shall be elected by joint vote of both houses of the general assembly.

[SEC. 13.[b] The judges of the several courts in this State shall hold their offices during good behavior; and for wilful neglect of duty, or other reasonable cause, which shall not be sufficient ground for impeachment, the governor shall remove any of them, on the address of two-thirds of each house of the general assembly; *Provided, however*, That the cause or causes for which such removal shall be required, shall be stated at length in such address, and entered on the journals of each house: *And provided further*, That the cause or causes shall be notified to the judge so intended to be removed, and he shall be admitted to a hearing in his own defence, before any vote for such address shall pass; and in all such cases the vote shall be taken by yeas and nays, and entered on the journals of each house respectively; *And provided, also*, That the judges of the several circuit courts, who shall be appointed before the commencement of the first session of the general assembly, which shall be begun and held after the first day of January, in the year of our Lord one thousand eight hundred and twenty-five, shall only hold their offices during good behavior, until the end of the said session, at which time their commissions shall expire.]

SEC. 14. No person who shall have arrived at the age of seventy years shall be appointed to, or continue in, the office of judge in this State.

SEC. 15. Clerks of the circuit and inferior courts in this State shall be elected by the qualified electors in each county, for the term of four years, and may be removed from office for such causes and in

---

[a] This section was amended in 1850.
[b] This section was amended in 1830.

such manner as may be prescribed by law; and should a vacancy occur, subsequent to an election, it shall be filled by the judge or judges of the courts in which such vacancy exists; and the person so appointed shall hold his office until the next general election; *Provided, however*, That after the year one thousand eight hundred and twenty-six, the general assembly may prescribe a different mode of appointment, but shall not make such appointment.

SEC. 16. The judges of the supreme court shall, by virtue of their offices, be conservators of the peace throughout the State; as also the judges of the circuit courts in their respective districts, and judges of the inferior courts in their respective counties.

SEC. 17. The style of all process shall be "*The State of Alabama*," and all prosecutions shall be carried on in the name and by the authority of the State of Alabama, and shall conclude "against the peace and dignity of the same."

SEC. 18. There shall be an attorney-general for the State, and as many solicitors as the general assembly may deem necessary, to be elected by a joint vote thereof, who shall hold their offices for the term of four years, and shall receive for their services a compensation, which shall not be diminished during their continuance in office.

IMPEACHMENTS

SECTION 1. The house of representatives shall have the sole power of impeaching.

SEC. 2. All impeachments shall be tried by the senate: when sitting for that purpose, the senators shall be on oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 3. The governor and all civil officers shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than removal from office, and to disqualification to hold any office of honor, trust, or profit, under the State; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, and punishment, according to law.

ARTICLE VI

GENERAL PROVISIONS

SECTION 1. The members of the general assembly, and all officers, executive and judicial, before they enter on the execution of their respective offices, shall take the following oath or affirmation, to wit: "I solemnly swear (or affirm, as the case may be,) that I will support the Constitution of the United States, and the constitution of the State of Alabama, so long as I continue a citizen thereof, and that I will faithfully discharge, to the best of my abilities, the duties of ——, according to law: So help me God.

SEC. 2. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

SEC. 3. The general assembly shall have power to pass such penal laws to suppress the evil practice of duelling, extending to disqualification from office or the tenure thereof, as they may deem expedient.

SEC. 4. Every person shall be disqualified from holding any office or place of honor or profit, under the authority of the State, who shall be convicted of having given or offered any bribe to procure his election or appointment.

SEC. 5. Laws shall be made to exclude from office, from suffrage, and from serving as jurors, those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes or misdemeanors. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon, from power, bribery, tumult, or other improper conduct.

SEC. 6. In all elections by the general assembly, the members thereof shall vote *viva voce*, and the votes shall be entered on the journals.

SEC. 7. No money shall be drawn from the treasury, but in consequence of an appropriation made by law; and a regular statement and account of the receipts and expenditures of all public moneys shall be published annually.

SEC. 8. All lands liable to taxation in this State, shall be taxed in proportion to their value.

SEC. 9. The general assembly shall direct, by law, in what manner, and in what courts, suits may be brought against the State.

SEC. 10. It shall be the duty of the general assembly to regulate, by law, the cases in which deductions shall be made from the salaries of public officers, for neglect of duty in their official capacities, and the amount of such deduction.

SEC. 11. Absence on business of this State, or of the United States, or on a visit, or necessary private business, shall not cause a forfeiture of a residence once obtained.

SEC. 12. No member of Congress, nor any person holding any office of profit or trust under the United States, (the office of postmaster excepted,) or either of them, or any foreign power, shall hold or exercise any office of profit under this State.

SEC. 13. Divorces from the bonds of matrimony shall not be granted but in cases provided for by law, by suit in chancery; and no decree for such divorce shall have effect, until the same shall be sanctioned by two-thirds of both houses of the general assembly.

SEC. 14. In prosecutions for the publishing of papers investigating the official conduct of officers or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence; and in all indictments for libels, the jury shall have a right to determine the law and the facts, under the direction of the courts.

SEC. 15. Returns of all elections for officers, who are to be commissioned by the governor, and for members of the general assembly, shall be made to the secretary of state.

SEC. 16. No new county shall be established by the general assembly, which shall reduce the county or counties, or either of them, from which it shall be taken, to a less content than nine hundred square miles; nor shall any county be laid off of less contents. Every new

county, as to the right of suffrage and representation, shall be considered as a part of the county or counties from which it was taken, until entitled by numbers to the right of separate representation.

SEC. 17. The general assembly shall, at their first session, which may be holden in the year eighteen hundred and twenty-eight, or at the next succeeding session, arrange and designate boundaries for the several counties within the limits of this State to which the Indian title shall have been extinguished, in such manner as they may deem expedient, which boundaries shall not be afterward altered, unless by the agreement of two-thirds of both branches of the general assembly; and in all cases of ceded territory acquired by the State, the general assembly may make such arrangements and designations of the boundaries of counties within such ceded territory, as they may deem expedient, which only shall be altered in like manner: *Provided*, That no county, hereafter to be formed, shall be of less extent than nine hundred square miles.

SEC. 18. It shall be the duty of the general assembly to pass such laws as may be necessary and proper to decide differences by arbitrators, to be appointed by the parties, who may choose that summary mode of adjustment.

SEC. 19. It shall be the duty of the general assembly, as soon as circumstances will permit, to form a penal code, founded on principles of reformation, and not of vindictive justice.

SEC. 20. Within five years after the adoption of this constitution, the body of our laws, civil and criminal, shall be revised, digested, and arranged, under proper heads, and promulgated in such manner as the general assembly may direct; and a like revision, digest, and promulgation, shall be made within every subsequent period of ten years.

SEC. 21. The general assembly shall make provisions by law for obtaining correct knowledge of the several objects proper for improvement in relation to the navigable waters, and to the roads in this State, and for making a systematic and economical application of the means appropriated to those objects.

SEC. 22. In the event of the annexation of any foreign territory to this State, by a cession from the United States, laws may be passed, extending to the inhabitants of such territory all the rights and privileges which may be required by the terms of such cession; anything in this constitution to the contrary notwithstanding.

EDUCATION

Schools, and the means of education, shall forever be encouraged in this State; and the general assembly shall take measures to preserve, from unnecessary waste or damage, such lands as are or hereafter may be granted by the United States for the use of schools within each township in this State, and apply the funds, which may be raised from such lands, in strict conformity to the object of such grant. The general assembly shall take like measures for the improvement of such lands as have been or may be hereafter granted by the United States to this State, for the support of a seminary of learning, and the moneys which may be raised from such lands, by rent, lease, or sale, or from any other quarter, for the purpose aforesaid, shall be and remain a fund for the exclusive support of a State

university, for the promotion of the arts, literature and the sciences; and it shall be the duty of the general assembly, as early as may be, to provide effectual means for the improvement and permanent security of the funds and endowments of such institution.

ESTABLISHMENT OF BANKS

SECTION 1. One State bank may be established, with such number of branches as the general assembly may, from time to time, deem expedient: *Provided*, That no branch bank shall be established, nor bank charter renewed, under the authority of this State, without the concurrence of two-thirds of both houses of the general assembly; *And provided, also*, That not more than one bank nor branch bank shall be established, nor bank charter renewed, at any one session of the general assembly, nor shall any bank or branch bank be established, or bank charter renewed, but in conformity with the following rules:

1. At least two-fifths of the capital stock shall be reserved for the State.

2. A proportion of power in the direction of the bank shall be reserved to the State equal at least to its proportion of stock therein.

3. The State, and the individual stockholders, shall be liable, respectively, for the debts of the bank, in proportion to their stock holden therein.

4. The remedy for collecting debts shall be reciprocal, for and against the bank.

5. No bank shall commence operations, until half of the capital stock subscribed for be actually paid in gold or silver, which amount shall, in no case, be less than one hundred thousand dollars.

6. In case any bank or branch bank shall neglect or refuse to pay, on demand, any bill, note, or obligation, issued by the corporation according to the promise therein expressed, the holder of any such note, bill, or obligation, shall be entitled to receive and recover interest thereon, until the same shall be paid, or specie payments are resumed, by said bank, at the rate of twelve per cent. per annum from the date of such demand, unless the general assembly shall sanction such suspension of specie payments, and the general assembly shall have power, after such neglect or refusal, to adopt such measures as they may deem proper, to protect and secure the rights of all concerned, and to declare the charter of such bank forfeited.

7. After the establishment of a general State bank, the banks of this State now existing may be admitted as branches thereof, upon such terms as the legislature and the said banks may agree, subject, nevertheless, to the preceding rules.

SLAVES

SECTION 1. The general assembly shall have no power to pass laws for the emancipation of slaves, without the consent of their owners, or without paying their owners, previous to such emancipation, a full equivalent in money for the slaves so emancipated. They shall have no power to prevent emigrants to this State from bringing with them such persons as are deemed slaves by the laws of any one of the

United States, so long as any person of the same age or description shall be continued in slavery by the laws of this State: *Provided*, That such person or slave be the *bona-fide* property of such emigrants: *And provided, also*, That laws may be passed to prohibit the introduction into this State of slaves who have committed high crimes in other States or Territories. They shall have power to pass laws to permit the owners of slaves to emancipate them, saving the rights of creditors, and preventing them from becoming a public charge. They shall have full power to prevent slaves from being brought into this State as merchandise, and also to oblige the owners of slaves to treat them with humanity, to provide for them necessary food and clothing, to abstain from all injuries to them extending to life or limb, and, in case of their neglect, or refusal to comply with the directions of such laws, to have such slave or slaves sold for the benefit of the owner or owners.

SEC. 2. In the prosecution of slaves for crimes, of higher grade than petit larceny, the general assembly shall have no power to deprive them of an impartial trial by a petit jury.

SEC. 3. Any person who shall maliciously dismember or deprive a slave of life, shall suffer such punishment as would be inflicted in case the like offence had been committed on a free white person, and on the like proof; except in case of insurrection of such slave.

MODE OF AMENDING AND REVISING THE CONSTITUTION

The general assembly, whenever two-thirds of each house shall deem it necessary, may propose amendments to this constitution, which proposed amendments shall be duly published in print, at least three months before the next general election of representatives, for the consideration of the people, and it shall be the duty of the several returning officers, at the next general election which shall be held for representatives, to open a poll for, and make a return to the secretary of state for the time being, of the names of all those voting for representatives, who have voted on such proposed amendments, and if thereupon it shall appear that a majority of all the citizens of this State, voting for representatives, have voted in favor of such proposed amendments, and two-thirds of each house of the next general assembly, shall, after such an election, and before another, ratify the same amendments by yeas and nays, they shall be valid, to all intents and purposes, as parts of this constitution: *Provided*, That the said proposed amendments shall, at each of the said sessions, have been read three times, on three several days, in each house.

SCHEDULE

SECTION 1. That no inconvenience may arise from a change of territorial to a permanent State government, it is declared that all rights, actions, prosecutions, claims, and contracts, as well of individuals as of bodies corporate, shall continue as if no such change had taken place: and all process, which shall, before the third Monday in September next, be issued in the name of the Alabama Territory, shall be as valid as if issued in the name of the State.

SEC. 2. All fines, penalties, forfeitures, and escheats, accruing to the Alabama Territory, shall accrue to the use of the State.

SEC. 3. The validity of all bonds and recognizances executed to the governor of the Alabama Territory, shall not be impaired by the change of government, but may be sued for and recovered in the name of the governor of the State of Alabama and his successors in office; and all criminal or penal actions, arising or now depending within the limits of this State, shall be prosecuted to judgment and execution in the name of said State, all causes of action arising to individuals, and all suits at law or in equity, now depending in the several courts within the limits of this State, and not already barred by law, may be commenced in, or transferred to, such courts as may have jurisdiction thereof.

SEC. 4. All officers, civil or military, now holding commissions under the authority of the United States or of the Alabama Territory, within this State, shall continue to hold and exercise their respective offices under the authority of this State, until they shall be superseded under the authority of this constitution, and shall receive from the treasury of this State the same compensation which they heretofore received, in proportion to the time they shall be so employed. The governor shall have power to fill vacancies by commissions, to expire so soon as elections or appointments can be made to such offices by authority of this constitution.

SEC. 5. All laws, and parts of laws, now in force in the Alabama Territory, which are not repugnant to the provision of this constitution, shall continue and remain in force as the laws of this State, until they expire by their own limitation, or shall be altered, or repealed, by the legislature thereof.

SEC. 6. Every white male person above the age of twenty-one years, who shall be a citizen of the United States, and resident in this State at the time of the adoption of this constitution, shall be deemed a qualified elector at the first election to be holden in this State. And every white male person who shall reside within the limits of this State at the time of the adoption of this constitution, and shall be otherwise qualified, shall be entitled to hold any office or place of honor, trust, or profit under this State; anything in this constitution to the contrary notwithstanding.

SEC. 7. The president of this convention shall issue writs of election directed to the sheriffs of the several counties, requiring them to cause an election to be held for a governor, representative to the Congress of the United States, members of the general assembly, clerks of the several courts, and sheriffs of the respective counties, at the respective places of election in said counties, on the third Monday and the day following in September next, which elections shall be conducted in the manner prescribed by the existing election laws of the Alabama Territory; and the said governor and members of the general assembly, then duly elected, shall continue to discharge the duties of their respective offices, for the time prescribed by this constitution, and until their successors shall be duly qualified.

SEC. 8. Until the first enumeration shall be made, as directed by this constitution, the county of Autauga shall be entitled to two representatives; the county of Baldwin to one representative; the county of Blount to three representatives; the county of Cahawba to one representative; the county of Clarke to two representatives; the county of Conecuh to two representatives; the county of Cotaco to

two representatives; the county of Dallas to two representatives; the county of Franklin to two representatives; the county of Lauderdale to two representatives; the county of Lawrence to two representatives; the county of Madison to eight representatives; the county of Marion to one representative; the county of Monroe to five representatives; the county of Montgomery to three representatives; the county of Mobile to one representative; the county of Saint Clair to one representative; the county of Shelby to two representatives; the county of Tuscaloosa to two representatives; and the county of Washington to two representatives. And each county shall be entitled to one senator, who shall serve for one term.

Sec. 9. The oaths of office, herein directed to be taken, may be administered by any justice of the peace, until the general assembly shall otherwise direct.

ORDINANCE

This convention, for and in behalf of the people inhabiting this State, do accept the proposition offered by the act of Congress, under which they are assembled; and this convention, for and in behalf of the people inhabiting this State, do ordain, agree, and declare, that they forever disclaim all right and title to the waste or unappropriated lands lying within this State; and that the same shall be and remain at the sole and entire disposition of the United States, and, moreover, that each and every tract of land, sold by the United States after the first day of September next, shall be and remain exempt from any tax, laid by the order or under the authority of this State, whether for State, county, township, parish, or any other purpose whatsoever, for the term of five years from and after the respective days of sales thereof; and that the lands belonging to the citizens of the United States, residing out of the limits of this State, shall never be taxed higher than the lands belonging to persons residing therein, and that no tax shall be imposed on the property of the United States; and that all navigable waters within this State shall forever remain public highways, free to the citizens of this State and of the United States, without any tax, duty, impost, or toll therefor, imposed by this State: and this ordinance is hereby declared irrevocable, without the consent of the United States.

Done in convention at Huntsville, this second day of August, in the year of our Lord one thousand eight hundred and nineteen, and of American Independence the forty-fourth.

J. W. WALKER, *President.*

Attest:

JOHN CAMPBELL, *Secretary.*

AMENDMENTS TO THE CONSTITUTION OF 1819

(First—Adopted January, 1830)

Strike out the thirteenth section of the fifth article of constitution, and in lieu thereof insert the following:

"The judges of the several courts of this State shall hold their offices for the term of six years; and for wilful neglect of duty, or other reasonable cause, which shall not be sufficient ground for impeachment, the governor shall remove any of them on the address

of two-thirds of each house of the general assembly: *Provided, however*, That the cause or causes for which such removal shall be required, shall be stated at length in such address, and entered on the journals of each house: *And provided, further*, That the cause or causes shall be notified to the judge so intended to be removed, and he shall be admitted to a hearing in his own defence, before any vote for such address shall pass; and in all such cases the vote shall be taken by yeas and nays, and entered on the journals of each house respectively: *And provided, also*, That the judges now in office may hold their offices until the session of the general assembly which shall be held in the year one thousand eight hundred and thirty-three, and until their successors shall be elected and qualified, unless removed by address or impeachment."

(Second—Adopted 1846)

Strike out the words "one year" where they occur in the second section of the third article, and insert in lieu thereof "two years."

Strike out the words "every year" where they occur in the third section of third article, and insert in lieu thereof "at each session."

Strike out the thirteen section of the third article, and insert in lieu thereof the following: "At the first meeting of the general assembly after the adoption of the proposed amendments, the senators when convened shall be divided into two classes, as nearly equal as may be. The seats of the senators of the first class shall be vacated at the expiration of the two next ensuing years; so that one-half may be biennially chosen thereafter, and a rotation thereby kept up perpetually."

Strike out the twenty-ninth section of the third article, which permanently locates the seat of government in this State.

Strike out the word "annual" where it occurs in the eight section of the fourth article, and insert in lieu thereof, "biennial."

(Third—Adopted 1850)

Strike out the ninth section of the third article of the constitution, and in lieu thereof insert the following:

"Sec. 9. The general assembly shall cause an enumeration to be made in the year eighteen hundred and fifty, and eighteen hundred and fifty-five, and every ten years thereafter, of all the white inhabitants of this State; and the whole number of representatives shall at the first regular session after such enumeration, be apportioned among the several counties, cities, or towns entitled to separate representation, according to their respective number of white inhabitants, and the said apportionment when made shall not be subject to alteration until after the next census shall be taken. The number of representatives shall not exceed one hundred, and the number of senators shall not exceed thirty-three; yet each county, notwithstanding it may not have a number of white inhabitants equal to the ratio fixed, shall have one representative."

Strike out the thirteenth section of the third article of the constitution, and insert in lieu thereof the following:

"Sec. 13. Senators shall be chosen for the term of four years: yet at the general election after every new apportionment, elections shall be held anew in every senatorial district; and the senators elected,

when convened at the first session, shall be divided by lot into two classes, as nearly equal as may be: the seats of those of the first class shall be vacated at the expiration of two years, and those of the second class at the expiration of four years, dating in both cases from the day of election, so that one-half may be biennially chosen, except as above provided."

At the end of the twelfth section of the fifth article of the constitution add—

"But at and after the session of the general assembly to be held in the winter of the years eighteen hundred and forty-nine–fifty, the general assembly shall provide by law for the election of judges of the circuit courts by the qualified electors of their circuits respectively, and for the elections of judges of the courts of probate and other inferior courts (not including chancellors) by the qualified electors of the counties, cities, or districts for which such courts may be respectively established; the first Monday in November in any year shall be the day for any election of such judges by the people, or such other day, not to be within a less period than two months of the general election for governor, members of the general assembly, or members of Congress, as the general assembly may by law prescribe: but no change to be made in any circuit or district, or in the mode or time of electing, shall affect the right of any judge to hold office during the term prescribed by the constitution, except at the first elections thereof to be made by the people after the ratification of these amendments or either of them, which elections shall then all be had on the same day throughout the State, and the terms of the judges then to be elected shall commence on that day: vacancies in the office of judge shall be filled by the governor, and the persons appointed thereto by him shall hold until the next first Monday in November, or other election day of judges, and until the election and qualification of their successors respectively; and the general assembly shall have power to annex to the offices of any of the judges of the inferior courts the duties of clerks of such courts respectively."

CONSTITUTION OF ALABAMA—1865 * [a]

PREAMBLE

We, the people of the State of Alabama, by our representatives in convention assembled; in order to establish justice, insure domestic tranquillity, provide for the common defence, promote the general

---

* Verified by "The Constitution and Ordinances Adopted by the State Convention of Alabama which assembled at Montgomery, on the Twelfth Day of September A. D. 1865, with Index, Analysis, and Table of Contents, by J. W. Shepherd. Montgomery: Gibson & Whitefield—State Printers: 1865." (Appendix) pp. 9–28.

[a] An ordinance of secession from the United States was adopted by a convention of the people of Alabama on the 11th of January, 1861, and that convention made such changes in the State constitution as were rendered necessary by the transfer of allegiance to the Confederate States government.

When Lewis E. Parsons was appointed provisional governor of Alabama by the President of the United States, he called a constitutional convention, which assembled at Montgomery on the 12th of September, 1865. Several ordinances were passed, one of which declared the ordinance of secession of 1861 null and void, and the above constitution was adopted, but not submitted to the people.

welfare, and secure to ourselves and to our posterity the rights of life, liberty, and property; invoking the favor and guidance of Almighty God, do ordain and establish the following constitution and form of government for the State of Alabama—that is to say:

Article I

DECLARATION OF RIGHTS

That the general, great, and essential principles of liberty and free government may be recognized and established, we declare—

Section 1. That no man, and no set of men, are entitled to exclusive separate public emoluments or privileges, but in consideration of public services.

Sec. 2. That all political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and that, therefore, they have at all times an inalienable and indefeasible right to alter, reform, or abolish their form of government, in such manner as they may deen expedient.

Sec. 3. That no person within this State shall, upon any pretence whatever, be deprived of the inestimable privilege of worshipping God in the manner most agreeable to his own conscience; nor be hurt, molested, or restrained in his religious profession, sentiments, or persuasions, provided he does not disturb others in their religious worship.

Sec. 4. That no religion shall be established by law; that no preference shall be given by law to any religious sect, society, denomination, or mode of worship; that no one shall be compelled by law to attend any place of worship, nor to pay any tithes, taxes, or other rate, for building or repairing any place of worship, or for maintaining any minister or ministry; that no religious test shall be required as a qualification to any office or public trust under this State; and that the civil rights, privileges, and capacities of any citizen shall not be in any manner affected by his religious principles.

Sec. 5. That every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

Sec. 6. That the people shall be secure in their persons, houses, papers, and possessions, from unreasonable seizures or searches; and that no warrant shall issue to search any place, or to seize any person or thing, without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation.

Sec. 7. That in all criminal prosecutions, the accused has a right to be heard by himself and counsel, to demand the nature and cause of the accusation, to have a copy thereof, to be confronted by the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and, in all prosecutions by indictment or information, a speedy public trial by an impartial jury of the county or district in which the offence was committed; and that he shall not be compelled to give evidence against himself, nor be deprived of his life, liberty, or property, but by due course of law.

Sec. 8. That no person shall be accused, arrested, or detained, except in cases ascertained by law, and according to the forms which the same has prescribed; and that no person shall be punished, but by

virtue of a law established and promulgated prior to the offence, and legally applied.

Sec. 9. That no person shall, for any indictable offence, be proceeded against criminally by information; except in cases arising in the land and naval forces, or in the militia when in actual service, or, by leave of the court, for oppression or misdemeanor in office: *Provided*, That in cases of petit larceny, assault, assault and battery, affray, unlawful assemblies, vagrancy, and other misdemeanors, the general assembly may by law dispense with a grand jury, and authorize such prosecutions before justices of the peace, or such other inferior courts as may be by law established; and the proceedings in such cases shall be regulated by law.

Sec. 10. That no person shall, for the same offence, be twice put in jeopardy of life or limb.

Sec. 11. That no person shall be debarred from prosecuting or defending, before any tribunal in this State, by himself or counsel, any civil cause to which he is a party.

Sec. 12. That the right of trial by jury shall remain inviolate.

Sec. 13. That in prosecutions for the publication of papers investigating the official conduct of officers or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence; and that in all indictments for libels, the jury shall have the right to determine the law and the facts, under the direction of the court.

Sec. 14. That all courts shall be open; and that every person, for any injury done him, in his lands, goods, person or reputation, shall have a remedy by due course of law, and right and justice administered, without sale, denial, or delay.

Sec. 15. That suits may be brought against the State, in such manner, and in such courts, as may be by law provided.

Sec. 16. That excessive fines shall not be imposed, nor cruel punishments be inflicted.

Sec. 17. That all persons shall, before conviction, be bailable by sufficient sureties, except for capital offences, when the proof is evident, or the presumption great; and that excessive bail shall not, in any case, be required.

Sec. 18. That the privileges of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

Sec. 19. That treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort; and that no person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

Sec. 20. That no person shall be attainted of treason by the General Assembly; and that no conviction shall work corruption of blood, or forfeiture of estate.

Sec. 21. That the estates of suicides shall descend, or vest, as in cases of natural death; and that, if any person shall be killed by casualty, there shall be no forfeiture by reason thereof.

Sec. 22. That the person of a debtor, when there is not a strong presumption of fraud, shall not be detained in prison, after delivering up his estate, for the benefit of his creditors, in such manner as shall be prescribed by law.

SEC. 23. That no power of suspending laws shall be exercised, except by the General Assembly, or by its authority.

SEC. 24. That no *ex post facto* law, nor any law impairing the obligation of contracts, shall be made.

SEC. 25. That private property shall not be taken or applied for public use, unless just compensation be made therefor; nor shall private property be taken for private use, or for the use of corporations other than municipal, without the consent of the owner; *Provided, however*, That laws may be made securing to persons or corporations the right of way over the lands of other persons or corporations, and, for works of internal improvement, the right to establish depots, stations, and turn-outs; but just compensation shall, in such cases, be first made to the owner.

SEC. 26. That the citizens have a right, in a peaceable manner, to assemble together for their common good, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by petition, address, or remonstrance.

SEC. 27. That every citizen has a right to bear arms in defence of himself and the State.

SEC. 28. That no person, who conscientiously scruples to bear arms, shall be compelled to do so, but may pay an equivalent for personal service.

SEC. 29. That no standing army shall be kept up, without the consent of the General Assembly; and in that case, no appropriation for its support shall be for a longer term than one year; and that the military shall, in all cases, and at all times, be in strict subordination to the civil power.

SEC. 30. That no soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

SEC. 31. That no title of nobility, or hereditary distinction, privilege, honor, or emolument, shall ever be granted or conferred in this State; and that no office shall be created, the appointment of which shall be for a longer term than during good behavior.

SEC. 32. That emigration from this State shall not be prohibited, and that no citizen shall be exiled.

SEC. 33. That temporary absence from the State shall not cause a forfeiture of residence once obtained.

SEC. 34. That hereafter there shall be in this State neither slavery, nor involuntary servitude, otherwise than for the punishment of crime, whereof the party shall have been duly convicted.

SEC. 35. That the right of suffrage shall be protected by laws regulating elections, and prohibiting, under adequate penalties, all undue influence from power, bribery, tumult, or other improper conduct.

SEC. 36. This enumeration of certain rights shall not be construed to deny or disparage others retained by the people; and to guard against any encroachment on the rights hereby retained, or any transgression of any of the high powers by this constitution delegated, we declare, that everything in this article is excepted out of the general powers of government, and shall forever remain inviolate, and that all laws contrary thereto, or to the following provisions, shall be void.

Article II

STATE BOUNDARIES AND COUNTIES

Section 1. The boundaries of this State are established and declared to be as follows—that is to say: Beginning at the point where the thirty-first degree of north latitude crosses the Perdido River; thence east, to the western boundary-line of the State of Georgia; thence along said line, to the southern boundary-line of the State of Tennessee; thence west, along the southern boundary-line of the State of Tennessee, crossing the Tennessee River, and on to the second intersection of said river by said line; thence up said river to the mouth of Big Bear Creek; thence by a direct line to the northwest corner of Washington County in this State, as originally formed; thence southerly, along the line of the State of Mississippi, to the Gulf of Mexico; thence easterly, including all islands within six leagues of the shore, to the Perdido River; and thence up the said river, to the beginning.

Sec. 2. The General Assembly may, by a vote of two-thirds of both branches thereof, arrange and designate boundaries for the several counties of this State, which boundaries shall not be altered except by a like vote; but no new county shall be hereafter formed of less extent than six hundred square miles, nor shall any existing county be reduced to a less extent than six hundred square miles; and no county shall be formed not containing a sufficient number of inhabitants to entitle it to one representative under the existing ratio of representation, nor unless the counties from which it is taken shall be left with the required number entitling them to separate representation.

Article III

DISTRIBUTION OF POWERS OF GOVERNMENT

Section 1. The powers of the government of the State of Alabama shall be divided into three distinct departments, each of which shall be confided to a separate body of magistracy—to wit: those which are legislative to one, those which are executive to another, and those which are judicial to another.

Sec. 2. No person, or collection of persons, being of one of those departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

Article IV

LEGISLATIVE DEPARTMENT

Section 1. The legislative power of this State shall be vested in two distinct branches, the one to be styled the "*Senate*," and the other the "*House of Representatives*," and both together the "*General Assembly of the State of Alabama.*"

Sec. 2. All laws shall be passed by original bill; and their style shall be, "*Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened.*" Each law

shall embrace but one subject, which shall be described in the title; and no law, or any section of any law, shall be revised or amended by reference only to its title and number, but the law or section revised or amended shall itself be set forth at full length.

SEC. 3. Members of both houses of the General Assembly shall be chosen by the qualified electors; and the regulations for holding such elections shall, as to time, place, and manner, be the same for each house, and shall be prescribed by law. After the special election to be held on the first Monday in November, 1865, such elections shall, until otherwise directed by law, take place on the first Monday in August.

SEC. 4. No person who holds any lucrative office under the United States, or under this State, or under any other State or government (except postmasters, officers in the militia, to whose office no annual salary is attached, justices of the peace, members of the court of county commissioners, notaries public, and commissioners of deeds, excepted;) no person who has been convicted of having given or offered any bribe to procure his election; no person who has been convicted of bribery, forgery, perjury, or other high crime or misdemeanor which may be by law declared to disqualify him; and no person who has been a collector or holder of public moneys, and has failed to account for and pay over into the treasury all sums for which he may be by law accountable, shall be eligible to the General Assembly.

SEC. 5. Representatives shall be chosen for the term of two years; and no person shall be a representative who is not a white man, twenty-one years of age, a citizen of the United States, and who has not been an inhabitant of this State for the two years next preceding the election, and for the last year thereof a resident of the county for which he is chosen.

SEC. 6. The house of representatives shall consist of not more than one hundred members, who shall be apportioned by the General Assembly among the several counties of the State according to the number of white inhabitants in them respectively; and, to this end, the general assembly shall cause an enumeration of all the inhabitants of the State to be made in the year one thousand eight hundred and sixty-six, and again in the year one thousand eight hundred and seventy-five, and every ten years thereafter, and shall make an apportionment of the representatives among the several counties at the first regular session after each enumeration; which apportionment, when made, shall not be subject to alteration, until after the next census shall have been taken; *Provided*, That each county shall be entitled to at least one representative; *Provided further*, That where two or more adjoining counties shall each have a residuum or fraction over and above the ratio then fixed by law, which fractions, when added together, equal or exceed that ratio, in that case, the county having the largest fraction shall be entitled to one additional representative.

SEC. 7. The whole number of senators shall be not less than one-fourth, nor more than one-third of the whole number of representatives; and it shall be the duty of the General Assembly, at its first session after the making of each enumeration, as provided by the last preceding section, to fix by law the number of senators, and to divide the State into as many senatorial districts as there are senators; which districts shall be as nearly equal to each other as may be in

the number of white inhabitants, and each shall be entitled to one senator, and no more. *Provided*, That, in the formation of said districts, no county shall be divided, and no two or more counties, which are separated entirely by a county belonging to another district, shall be joined into one district; *And provided further*, That the senatorial districts, when formed, shall not be changed until after the next census shall have been taken.

SEC. 8. No person shall be a senator, who is not a white man, at least twenty-seven years of age, a citizen of the United States, and who has not been an inhabitant of this State for two years next preceding the election, and for the last year thereof a resident in the district for which he is chosen.

SEC. 9. Senators shall be chosen for the term of four years; yet, at the first general election after each new apportionment, elections shall be held anew in all the senatorial districts; and the senators elected, when convened at the next ensuing session of the General Assembly, shall be divided by lot into two classes, as nearly equal to each other as may be; the seats of the senators of the first class shall be vacated at the expiration of two years, and those of the second class at the expiration of four years from the day of election, so that (except as above provided) one-half of the senators may be chosen biennially.

SEC. 10. The General Assembly shall meet annually, on such day as may be by law prescribed; and shall not remain in session longer than thirty days, unless by a vote of two-thirds of each house.

SEC. 11. At the first regular or called session after each general election for representatives, the senate shall choose a president and its other officers, and the house of representatives shall choose a speaker and its other officers; and the officers so chosen shall be entitled to hold their respective offices until the next general election for representatives. Each house shall judge of the qualifications, elections and returns of its own members; but a contested election shall be determined in such manner as may be by law provided.

SEC. 12. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner, and under such penalties, as each house may provide.

SEC. 13. Each house may determine the rules of its own proceedings, punish members for disorderly behavior, and, with the consent of two-thirds, expel a member, but not a second time for the same offense; and shall have all other powers necessary for a branch of the legislature of a free and independent State.

SEC. 14. Each house may, during the session, punish by imprisonment any person, not a member, for disrespectful or disorderly behavior in its presence, or for obstructing any of its proceedings; *Provided*, That such imprisonment shall not, at any one time, exceed forty-eight hours.

SEC. 15. Each house shall keep a journal of its own proceedings, and cause the same to be published immediately after its adjournment, excepting such parts as in its judgment, may require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the desire of any two members present, be entered on the journals. Any member of either house shall have leave to dissent from, and protest against, any act or resolution which he may think injurious to the public or to an individual, and have the reasons of his dissent entered on the journals.

SEC. 16. The doors of each house shall be open, except on such occasions as, in the opinion of the house, may require secrecy.

SEC. 17. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

SEC. 18. Bills may originate in either house, and be amended, altered, or rejected by the other; but no bill shall have the force of a law, until it be read in each house on three several days, and free discussion thereon be allowed; unless, in case of urgency, four-fifths of the house in which the bill may be depending shall deem it expedient to dispense with this rule; and every bill, having passed both houses, shall be signed by the speaker and president of the respective houses; *Provided*, That all bills for raising revenue shall originate in the House of Representatives, but may be amended or rejected by the senate as other bills.

SEC. 19. In all elections by the General Assembly, the members shall vote *viva voce*, and the votes shall be entered on the journals.

SEC. 20. No senator or representative shall, during the term for which he was elected, be elected or appointed to any civil office of profit under this State, except such offices as may be filled by elections by the people.

SEC. 21. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest, during the session of the General Assembly, and in going to and returning from the same, allowing one day for every twenty miles such member may reside from the place at which the General Assembly is convened; nor shall any member be liable to answer for anything spoken in debate in either house, in any court or place elsewhere.

SEC. 22. Each member of the General Assembly shall receive from the public treasury such compensation for his services as may be fixed by law; but no increase of compensation shall take effect during the session at which such increase shall have been made.

SEC. 23. When vacancies happen in either house, the governor, or the person exercising the power of governor for the time being, shall issue writs of election to fill such vacancies.

SEC. 24. The House of Representatives shall have the sole power of preferring impeachments; all impeachments shall be tried by the senate; the senators, when sitting for that purpose, shall be on oath or affirmation; and no person shall be convicted under an impeachment, without the concurrence of two-thirds of the senators present.

SEC. 25. It shall be the duty of the General Assembly to pass such laws as may be necessary and proper to decide differences by arbitrators, to be appointed by the parties, who may choose that summary mode of adjustment.

SEC. 26. It shall be the duty of the General Assembly, from time to time, as circumstances may require, to frame and adopt a penal code, founded on principles of reformation.

SEC. 27. It shall also be the duty of the General Assembly, within five years after the adoption of this constitution, and within every subsequent period of ten years, to make provision by law for the revision, digesting, and promulgation of all the public statutes of this State, both civil and criminal.

SEC. 28. The General Assembly shall have power to pass such penal

laws as they may deem expedient to suppress the evil practice of duelling, extending to disqualification to hold office.

SEC. 29. It shall be the duty of the General Assembly to regulate by law the cases in which deductions shall be made from the salaries of public officers, for neglect of duty in their official capacities, and the amount of such deductions.

SEC. 30. Divorces from the bonds of matrimony shall not be granted, but in the cases by law provided for, and by suit in chancery; but decrees in chancery for divorce shall be final, unless appealed from, in the manner prescribed by law, within three months from the date of the enrolment thereof.

SEC. 31. It shall be the duty of the General Assembly, at its next session, and from time to time thereafter as it may deem proper, to enact laws prohibiting the intermarriage of white persons with negroes, or with persons of mixed blood, declaring such marriages null and void *ab initio*, and making the parties to any such marriage subject to criminal prosecutions, with such penalties as may be by law prescribed.

SEC. 32. The General Assembly shall make provision by law for obtaining correct knowledge of the several objects proper for improvement in relation to the roads and navigable waters in this State, and for making a systematic and economical application of the means appropriated to those objects.

SEC. 33. The General Assembly shall, from time to time, enact necessary and proper laws for the encouragement of schools and the means of education; shall take proper measures to preserve from waste or damage such lands as have been or may be granted by the United States for the use of schools in each township in this State, and apply the funds which may be raised from such lands in strict conformity with the object of such grant; shall take like measures for the improvement of such lands as have been or may hereafter be granted by the United States to this State for the support of a seminary of learning; and the money which may be raised from such lands, by rent, lease, or sale, or from any other quarter, for the purpose aforesaid, shall be and forever remain a fund for the exclusive support of a State university for the promotion of the arts, literature, and the sciences; and it shall be the duty of the General Assembly to provide by law effectual means for the improvement and permanent security of the funds of such institution.

SEC. 34. Not more than one bank shall be established, nor more than one bank charter be renewed, at any one session of the General Assembly; nor shall any bank be established, nor any bank charter be renewed, without the concurrence of two-thirds of each house of the General Assembly, and in conformity with the following rules—that is to say:

Rule 1. The stockholders shall be respectively liable for the debts of the bank in proportion to the amount of their stock.

Rule 2. The remedy for the collection of debts shall be reciprocal for and against the bank.

Rule 3. No bank shall commence operations, until one-half of the capital stock subscribed for be actually paid in gold and silver; which amount shall, in no case, be less than one hundred thousand dollars.

Rule 4. If any bank shall neglect or refuse to pay, on demand, any

bill, note, or obligation issued by the corporation, according to the promise therein expressed, the holder of such bill, note, or obligation, shall be entitled to receive and recover interest thereon until paid, or until specie payments are resumed by the bank, at the rate of twelve per centum per annum from the date of such demand; unless the General Assembly shall, by a vote of two-thirds of each house thereof, sanction such suspension of specie payments.

Rule 5. Whenever any bank suspends specie payments, its charter is thereby forfeited; unless such suspension shall be sanctioned and legalized, at the next session of the General Assembly, by a vote of two-thirds of each house thereof.

SEC. 35. The General Assembly shall provide by law for organizing and disciplining the militia of this State, in such manner as they may deem expedient, not incompatible with the Constitution and laws of the United States; shall fix the rank of all staff officers, and prescribe the manner in which all officers shall be appointed or elected: *Provided*, That no other officers than adjutants-general and quartermasters-general shall be appointed by the General Assembly: *And provided further*, That major-generals shall appoint their aides and all division and staff officers, brigadier-generals shall appoint their aides and all other brigade staff officers, and colonels shall appoint their regimental staff officers.

SEC. 36. It shall be the duty of the General Assembly, at its next session, and from time to time thereafter, to enact such laws as will protect the freedmen of this State in the full enjoyment of all their rights of person and property, and guard them and the State against any evils that may arise from their sudden emancipation.

SEC. 37. No money shall be drawn from the treasury, but in pursuance of an appropriation made by law; and a regular statement and account of the receipts and expenditures of all public moneys shall be published annually, in such manner as may be by law directed.

SEC. 38. No special law shall be enacted for the benefit of individuals or corporations, in cases which are provided for by a general law, or where the relief sought can be given by any court of this State.

SEC. 39. All lands liable to taxation in this State, shall be taxed in proportion to their value.

SEC. 40. No power to levy taxes shall be delegated to individuals or private corporations.

SEC. 41. The general assembly shall not borrow or raise money on the credit of the State, (except for purposes of military defence against actual or threatened invasion, rebellion, or insurrection,) without the concurrence of two-thirds of the members of each house; nor shall the debts or liabilities of any corporation, person, or persons, or other State, be guaranteed, nor any money, credit, or other thing, be loaned or given away, except by a like concurrence of each house; and the votes shall in each case, be taken by yeas and nays, and be entered on the journals.

SEC. 42. In the event of the annexation of any foreign territory to this State, the general assembly shall enact laws, extending to the inhabitants of the acquired territory all the rights and privileges which may be required by the terms of the acquisition; anything in this constitution to the contrary notwithstanding.

Article V

EXECUTIVE DEPARTMENT

Section 1. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled the governor of the State of Alabama.

Sec. 2. The governor shall be elected by the qualified electors, at the time and places at which they shall respectively vote for representatives.

Sec. 3. The returns of every election for governor shall be sealed up, and transmitted to the seat of government, directed to the speaker of the house of representatives, who shall, during the first week of the session, open and publish them in the presence of both houses of the general assembly. The person having the highest number of votes shall be governor; but, if two or more shall be equal and highest in votes, one of them shall be chosen governor by the joint vote of both houses. Contested elections for governor shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

Sec. 4. The governor shall hold his office for the term of two years from the time of his installation, and until his successor shall be qualified, but shall not be eligible for more than four years in any term of six years; he shall be at least thirty years of age, a native citizen of the United States, and shall have resided in this State at least four years next preceding the day of his election.

Sec. 5. He shall, at stated times, receive a compensation for his services, which shall not be either increased or diminished during the term for which he shall have been elected.

Sec. 6. He shall always reside, during the session of the General Assembly, at the place where their session may be held, and at other times wherever, in their opinion, the public good may require.

Sec. 7. He shall be commander-in-chief of the army and navy of this State, and of the militia thereof, except when they shall be called into the service of the United States; and when acting in the service of the United States, the General Assembly shall fix his rank.

Sec. 8. He shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, and to repel invasions; and shall appoint his aides-de-camp.

Sec. 9. He may require from the secretary of state, the comptroller of public accounts, and the state treasurer, information in writing on any subject relating to the duties of their respective offices.

Sec. 10. He may, by proclamation, on extraordinary occasions, convene the general assembly at the seat of government, or at a different place, if, since their last adjournment, that shall have become dangerous, from an enemy, or from contagious disorders; and in case of disagreement between the two houses, with respect to the time of adjournment, he may adjourn them to such time as he may think proper, not beyond the day of the next annual meeting of the General Assembly.

Sec. 11. He shall, from time to time, give to the General Assembly information of the state of the government, and recommend to their consideration such measures as he may deem expedient.

Sec. 12. He shall take care that the laws are faithfully executed.

Sec. 13. In all criminal and penal cases, except those of treason and impeachment, he shall have power to grant reprieves and pardons, and to remit fines and forfeitures, under such rules and regulations as may be prescribed by law; and in cases of treason, he shall have power, by and with the advice and consent of the senate, to grant reprieves and pardons, and, in the recess of the senate, he may respite the sentence until the end of the next session of the General Assembly.

Sec. 14. There shall be a great seal of the State, which shall be kept and used by the governor officially; and the seal now in use shall continue to be the great seal of the State, until another shall have been adopted by the general assembly.

Sec. 15. Vacancies that may happen in offices, the appointment of which is vested in the general assembly, shall, during the recess of the General Assembly, be filled by the governer, by granting commissions, which shall expire at the end of the next session.

Sec. 16. Every bill which shall have passed both houses of the General Assembly, shall be presented to the governor: if he approve, he shall sign it, but if not, he shall return it, with his objections, to the house in which it originated, who shall enter the objections at large upon the journals, and proceed to reconsider it; if, after such reconsideration, a majority of the whole number elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by whom it shall likewise be reconsidered, and, if approved by a majority of the whole number elected to that house, it shall become a law; but, in such cases, the votes of both houses shall be determined by yeas and nays, and the names of the members voting for or against the bill shall be entered on the journals of each house respectively. If any bill shall not be returned by the governor within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it; unless the general assembly, by their adjournment, prevent its return, in which case it shall not be a law.

Sec. 17. Every order, resolution, or vote, to which the concurrence of both houses may be necessary, (except on questions of adjournment, and for bringing on elections by the two houses,) shall be presented to the governor, and, before it shall take effect, be approved by him, or, being disapproved, shall be repassed by both houses, according to the rules and limitations prescribed in the case of a bill.

Sec. 18. No person shall, at one and the same time, hold the office of governor, and any other office or commission, civil or military, either under this State, the United States, or any other State or government.

Sec. 19. In case of the impeachment of the governor, his removal from office, death, refusal to qualify, resignation, or absence from the State, the president of the senate shall exercise all the power and authority appertaining to the office of governor, until the time appointed by the constitution for the election of governor shall arrive (unless the General Assembly shall provide by law for the election of a governor to fill such vacancy,) or until the governor who is absent or impeached shall return or be acquitted; and if, during such vacancy in the office of governor, the president of the senate shall be impeached, removed from office, refuse to qualify, die, resign, or be

absent from the State, the speaker of the house of representatives shall, in like manner, administer the government.

Sec. 20. The president of the Senate and the speaker of the House of Representatives shall, during the time they respectively administer the government, receive the same compensation which the governor would have received if he had been employed in the duties of his office.

Article VI

JUDICIAL DEPARTMENT

Section 1. The judicial power of this State shall be vested in one supreme court, circuit courts to be held in each county of the State, and such inferior courts of law and equity, to consist of not more than five members, as the General Assembly may, from time to time, direct, ordain and establish.

Sec. 2. Except in cases otherwise directed in this constitution, the supreme court shall have appellate jurisdiction only, which shall be co-extensive with the State, under such restrictions and regulations, not repugnant to this constitution, as may from time to time be prescribed by law; *Provided*, That said court shall have power to issue writs of injunction, *mandamus*, *quo warranto*, *habeas corpus*, and such other remedial and original writs as may be necessary to give it a general superintendence and control of inferior jurisdiction.

Sec. 3. The supreme court shall be held at the seat of government; but if that shall have become dangerous, from an enemy or from disease, may adjourn to a different place.

Sec. 4. The State shall be divided into convenient circuits, each of which shall contain not less than three, nor more than six counties; and for each circuit there shall be appointed a judge, who shall, after his appointment, reside in the circuit for which he may be appointed.

Sec. 5. The circuit court shall have original jurisdiction in all matters, civil and criminal, within this State, not otherwise excepted in this constitution; but in civil cases only where the matter or sum in controversy exceeds fifty dollars.

Sec. 6. A circuit court shall be held in each county in the State, at least twice in every year; and the judges of the several circuits may hold courts for each other when they deem it expedient, and shall do so when directed by law.

Sec. 7. The General Assembly shall have power to establish a court or courts of chancery, with original and appellate equity jurisdiction; *Provided*, That the judges of the several circuit courts shall have power to issue writs of injunction, returnable into the courts of chancery.

Sec. 8. The General Assembly shall have power to establish, in each county within this State, a court of probate, for the granting of letters testamentary, and of administration, and for orphans' business.

Sec. 9. A competent number of justices of the peace shall be appointed in and for each county, in such mode, and for such term of office as the general assembly may by law direct; whose jurisdiction,

in civil cases, shall be limited to causes in which the amount in controversy shall not exceed one hundred dollars; and in all cases tried by a justice of the peace, the right of appeal shall be secured under such rules and regulations as may be prescribed by law.

SEC. 10. The judges of the supreme court, circuit courts, and courts of chancery, shall, at stated times, receive for their services a compensation, which shall be fixed by law, and which shall not be diminished during their continuance in office; but they shall receive no fees or perquisites of office, nor hold any office of profit or trust, under this State, the United States, or any other power.

SEC. 11. Judges of the supreme court, and chancellors, shall be elected by a joint vote of both houses of the General Assembly; judges of the circuit and probate courts, and of such other inferior courts as may be by law established, shall be elected by the qualified electors of the respective counties, cities, or districts, for which such courts may be established. Elections of judges by the people shall be held on the first Monday in May, or such other day as may be by law prescribed, not within a less period than two months of the day fixed by law for the election of governor, members of the General Assembly, or members of Congress. Vacancies in the office of circuit judge, probate judge, or judge of any other inferior court established by law, shall be filled by the governor; and the person appointed by him shall hold office until the next election day by law appointed for the election of judges, and until his successor shall have been elected and qualified.

SEC. 12. The judges of the several courts of this State shall hold their offices for the term of six years; and the right of any judge to hold his office for the full term hereby prescribed, shall not be affected by any change hereafter made by law in any circuit or district, or in the mode or time of election; but for any wilful neglect of duty, or any other reasonable cause, which shall not be a sufficient ground of impeachment, the governor shall remove any judge, on the address of two-thirds of each house of the general assembly; *Provided*, That the cause or causes, for which said removal may be required, shall be stated at length in such address, and entered on the journals of each house; *And, provided further*, That the judge intended to be removed shall be notified of such cause or causes, and shall be admitted to a hearing in his own defence, before any vote for such address; and in all such cases, the vote shall be taken by yeas and nays, and be entered on the journals of each house respectively.

SEC. 13. No person who shall have arrived at the age of seventy years, shall be appointed or elected to, or shall continue in, the office of judge in this State.

SEC. 14. The judges of the supreme court shall, by virtue of their offices, be conservators of the peace throughout the State; as also the judges of the circuit courts within their respective circuits, and the judges of the inferior courts within their respective counties.

SEC. 15. Clerks of the circuit courts, and of such inferior courts as may be by law established, shall be elected by the qualified electors in each county, for the term of four years; and may be removed from office, for such causes, and in such manner, as may be by law prescribed. Vacancies in the office of clerk shall be filled by the judge of the court, and the person so appointed shall hold office until the

next general election, and until his successor is elected and qualified; *Provided*, That the general assembly shall have power to annex the duties of clerk to the office of judge of any inferior court by law established.

Sec. 16. The style of all process shall be, *The State of Alabama;* and all prosecutions shall be carried on in the name and by the authority of the State of Alabama, and shall conclude "against the peace and dignity of the same."

Article VII

STATE AND COUNTY OFFICERS

Section 1. A secretary of state, a comptroller of public accounts, and a State treasurer, shall be elected by a joint vote of both houses of the general assembly, each of whom shall continue in office during the term of two years, shall perform all the duties that may be required of him by law, and receive such compensation as may be by law provided.

Sec. 2. An attorney-general, and as many solicitors as there are judicial circuits in the State, shall be elected by a joint vote of both houses of the general assembly, each of whom shall hold his office for the term of four years, shall perform all the duties that may be required of him by law, and shall receive such compensation for his services as may be by law provided, which shall not be diminished during his continuance in office.

Sec. 3. A sheriff shall be elected in each county, by the qualified electors thereof, who shall hold his office for the term of three years, unless sooner removed, and shall not be eligible to serve, either as principal or deputy, for any two successive terms. Vacancies in the office of sheriff shall be filled by the governor, as in other cases; and the person so appointed shall continue in office until the next general election in the county for sheriff as by law provided.

Sec. 4. No member of Congress, nor any person who holds any office of profit or trust under the United States, (except postmasters,) or any other State or government; nor any person who shall have been convicted of having given or offered any bribe to procure his election or appointment; nor any person who shall have been convicted of bribery, forgery, perjury, or other high crime or misdemeanor which may be by law declared to disqualify him,—shall be eligible to any office of profit or trust under this State.

Sec. 5. All commissions shall be in the name, and by the authority of the State of Alabama; shall be sealed with the great seal of the State, signed by the governor, and attested by the secretary of state.

Sec. 6. All civil officers of this State, legislative, executive, and judicial, before they enter upon the execution of the duties of their respective offices, shall take the following oath: "I solemnly swear," (or affirm, as the case may be,) "that I will support the Constitution of the United States, and the constitution of the State of Alabama, so long as I continue a citizen thereof; and that I will faithfully discharge, to the best of my abilities, the duties of the office of ———; So help me God."

Sec. 7. All civil officers of the State, whether elected by the people, or by the general assembly, or appointed by the governor, shall be

liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than removal from office, and disqualification to hold any office of honor, trust, or profit, under the State; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, and punishment according to law.

Article VIII

ELECTIONS BY THE PEOPLE

Section 1. Every white male person, of the age of twenty-one years and upward, who shall be a citizen of the United States, and shall have resided in this State one year next preceding the election, and the last three months thereof in the county in which he offers to vote, shall be deemed a qualified elector; *Provided*, That no soldier, seaman, or marine, in the Regular Army or Navy of the United States, and no person who shall have been convicted of bribery, forgery, perjury, or other high crime or misdemeanor which may be by law declared to disqualify him, shall be entitled to vote at any election in this State.

Sec. 2. In all elections by the people, the electors shall vote by ballot, until otherwise directed by law.

Sec. 3. Except in cases of treason, felony, or breach of the peace, electors shall be privileged from arrest during their attendance at elections, and in going to and returning from the same.

Sec. 4. Returns of elections for all civil officers elected by the people, who are to be commissioned by the governor, and also for members of the General Assembly, shall be made to the secretary of state.

Article IX

AMENDMENT AND REVISION OF THE CONSTITUTION

Section 1. The General Assembly may, whenever two-thirds of each house shall deem it necessary, propose amendments to this constitution; which proposed amendments shall be duly published in print, (in such manner as the General Assembly may direct,) at least three months before the next general election for representatives, for the consideration of the people; and it shall be the duty of the several returning officers, at the next ensuing general election for representatives, to open a poll for the vote of the qualified electors on the proposed amendments, and to make a return of said vote to the secretary of state; and if it shall thereupon appear that a majority of all qualified electors of the State, who voted for representatives, voted in favor of the proposed amendments, and two-thirds of each house of the next General Assembly, before another election, shall ratify said amendments, each house voting by yeas and nays, said amendments shall be valid, to all intents and purposes, as parts of this constitution; *Provided*, That said proposed amendments shall, at each of said sessions of the General Assembly, have been read three times, on three several days, in each house.

Sec. 2. After the expiration of twelve months from the adoption of this constitution, no convention shall be held, for the purpose of

altering or amending the constitution of this State, unless the question of convention or no convention shall be first submitted to a vote of the qualified electors of the State, and approved by a majority of the electors voting at said election.

Adopted by the convention, by the unanimous vote of all the delegates present, at the State capitol, in the city of Montgomery, on this, the thirtieth day of September, in the year of our Lord one thousand eight hundred and sixty-five, and of the Independence of the United States the ninetieth year.

BENJ. FITZPATRICK,
President of Convention.

ATTEST:
WM. H. OGBOURNE,
Sec'y of Convention.

CONSTITUTION OF ALABAMA—1867 * [a]

PREAMBLE

We, the People of the State of Alabama, by our representatives in Convention assembled, in order to establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure to ourselves and to our posterity the rights of life, liberty, and property, invoking the favor and guidance of Almighty God, do ordain and establish the following Constitution and form of government for the State of Alabama:

ARTICLE I

DECLARATION OF RIGHTS

That the great general and essential principles of liberty and free government may be recognized and established, we declare:

SECTION 1. That all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness.

SEC. 2. That all persons resident in this State, born in the United States, or naturalized, or who shall have legally declared their intention to become citizens of the United States, are hereby declared citi-

* Verified by "The Constitution of the State of Alabama as Revised and Amended by the Convention Assembled at Montgomery on the Fifth Day of November, A. D. 1867. Montgomery, Ala., Barrett and Brown, 1867."

[a] Congress having directed how constitutions should be formed in the States recently in rebellion, by the acts of March 2 and March 21, 1867, a convention was called, which assembled at Montgomery November 5, 1867, and framed the above constitution and adjourned December 6, 1867. It was submitted to the people. Congress, after its reception, passed an act on the 25th of June, 1868, declaring that whenever the legislatures of Alabama [and other States named] should pass an act ratifying the fourteenth article of amendment to the Constitution, such State should be declared entitled to the admission of its Representatives in Congress. This was done on the 11th of July, 1868, and proclamation thereof was made by the President of the United States on the 20th of July, 1868.

zens of the State of Alabama, possessing equal civil and political rights and public privileges.

Sec. 3. That all political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and that, therefore, they have at all times, an inherent right to change their form of government, in such manner as they may deem expedient.

Sec. 4. That no person shall be deprived of the right to worship God according to the dictates of his own conscience.

Sec. 5. That no religion shall be established by law.

Sec. 6. That any citizen may speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

Sec. 7. That the people shall be secure in their persons, houses, papers and possessions, from unreasonable seizures or searches, and that no warrant shall issue to search any place, or to seize any person or thing, without probable cause, supported by oath or affirmation.

Sec. 8. That in all criminal prosecutions, the accused has a right to be heard by himself and counsel, or either; to demand the nature and cause of the accusation; to have a copy thereof; to be confronted by the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and in all prosecutions by indictment or information, a speedy public trial, by an impartial jury of the county or district in which the offence was committed; and that he shall not be compelled to give evidence against himself, or be deprived of his life, liberty, or property, but by due process of law.

Sec. 9. That no person shall be accused, or arrested, or detained, except in cases ascertained by law, and according to the forms which the same has prescribed; and that no person shall be punished but by virtue of a law established and promulgated prior to the offence, and legally applied.

Sec. 10. That no person shall, for any indictable offence, be proceeded against criminally, by information, except in cases arising in the land and naval service, or in the militia when in actual service, or by leave of the court for oppressions or misdemeanor in office: *Provided*, That in cases of petit larceny, assault, assault and battery, affray, unlawful assemblies, vagrancy, and other misdemeanors, the General Assembly may, by law, dispense with a grand jury, and authorize such prosecutions and proceedings before justices of the peace, or such inferior courts as may be by law established.

Sec. 11. That no person shall, for the same offence, be twice put in jeopardy of life or limb.

Sec. 12. That no person shall be debarred from prosecuting or defending, before any tribunal in the State, by himself, or counsel, any civil cause to which he is a party.

Sec. 13. That the right of trial by jury shall remain inviolate.

Sec. 14. That in prosecution for the publication of papers investigating the official conduct of officers, or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence; and that in all indictments for libel, the jury shall have the right to determine the law and the facts under the direction of the court.

Sec. 15. That all courts shall be open, that every person, for any injury done him in his lands, goods, person or reputation, shall have

a remedy by due process of law; and right and justice shall be administered without sale, denial or delay.

Sec. 16. That suits may be brought against the State, in such manner and in such courts as may be by law provided.

Sec. 17. That excessive fines shall not be imposed, or cruel punishment inflicted.

Sec. 18. That all persons shall, before conviction, be bailable by sufficient sureties, except for capital offences when the proof is evident or the presumption great. Excessive bail shall not, in any case, be required.

Sec. 19. The privilege of the writ of *habeas corpus* shall not be suspended, except when necessary for public safety in times of rebellion or invasion.

Sec. 20. That treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort; and that no person shall be convicted of treason, except on the testimony of two witnesses to the same overt act, or his own confession in open court.

Sec. 21. That no person shall be attainted of treason by the General Assembly; and that no conviction shall work corruption of blood or forfeiture of estate.

Sec. 22. That no person shall be imprisoned for debt.

Sec. 23. That no power of suspending laws shall be exercised, except by the General Assembly, or by its authority.

Sec. 24. That no *ex post facto* law, or any law impairing the obligation of contracts, shall be made.

Sec. 25. That private property shall not be taken or applied for public use, unless just compensation be made therefor; nor shall private property be taken for private use, or for the use of corporations, other than municipal, without the consent of the owner: *Provided, however*, That laws may be made securing to persons or corporations the right of way over the lands of either persons or corporations, and for works of internal improvement, the right to establish depots, stations, and turn-outs; but just compensation shall, in all cases, be first made to the owner.

Sec. 26. That all navigable waters shall remain forever public highways, free to the citizens of the State, and of the United States, without tax, impost or toll imposed; and that no tax, toll, impost or wharfage shall be demanded or received from the owner of any merchandise or commodity, for the use of the shores, or any wharf erected on the shores, or in or over the waters of any navigable stream, unless the same be expressly authorized by the General Assembly.

Sec. 27. That the citizens have a right, in a peaceable manner, to assemble together for the common good, and to apply to those invested with the power of government, for redress of grievances, or other purposes, by petition, address or remonstrance.

Sec. 28. That every citizen has a right to bear arms in defence of himself and the State.

Sec. 29. That no person who conscientiously scruples to bear arms shall be compelled to do so, but may pay an equivalent for personal service.

Sec. 30. That no standing army shall be kept up without the consent of the General Assembly; and, in that case, no appropriation

for its support shall be made for a longer term than one year, and the military shall, in all cases, and at all times, be in strict subordination to the civil power.

SEC. 31. That no soldier shall, in time of peace, be quartered in any house, without the consent of the owner; or in time of war, but in a manner to be prescribed by law.

SEC. 32. That no title of nobility, or hereditary distinction, privilege, honor, or emolument, shall ever be granted or conferred in this State; that no property qualification shall be necessary to the election to, or holding of any office in this State, and that no office shall be created, the appointment to which shall be for a longer time than during good behavior.

SEC. 33. That emigration from the State shall not be prohibited; and that no citizen shall be exiled.

SEC. 34. That temporary absence from the State shall not cause a forfeiture of residence once obtained.

SEC. 35. That no form of slavery shall exist in this State; and there shall be no involuntary servitude, otherwise than for the punishment of crime, of which the party shall have been duly convicted.

SEC. 36. The right of suffrage shall be protected by laws, regulating elections, and prohibiting, under adequate penalties, all undue influences from power, bribery, tumult or other improper conduct.

SEC. 37. That this State has no right to sever its relation to the Federal Union, or to pass any law in derogation of the paramount allegiance of the citizens of this State to the Government of the United States.

SEC. 38. That this enumeration of certain rights shall not impair or deny others retained by the people.

ARTICLE II

STATE AND COUNTY BOUNDARIES

SECTION 1. The boundaries of this State are established and declared to be as follows—that is to say: Beginning at the point where the thirty-first degree of north latitude crosses the Perdido River; thence east to the western boundary-line of the State of Georgia; thence along said line to the southern boundary-line of the State of Tennessee; thence west along the southern boundary-line to the State of Tennessee, crossing the Tennessee River, and on to the second intersection of said river, by said line; thence up said river to the mouth of Big Bear Creek; thence by a direct line to the northwest corner of Washington County, in this State, as originally formed; thence southerly, along the line of the State of Mississippi, to the Gulf of Mexico; thence eastwardly, including all islands within six leagues of the shore, to the Perdido River, and thence up the said river to the beginning.

SEC. 2. The General Assembly may, by a two-thirds vote of both houses thereof, arrange and designate boundaries for the several counties of this State, which boundaries shall not be altered, except by a like vote. But no new counties shall be hereafter formed of less extent than six hundred square miles; and no existing county shall be reduced to less extent than six hundred square miles; and no new county shall be formed which does not contain a sufficient number of

inhabitants to entitle it to one representative under the ratio of representation existing at the time of its formation, or unless the county or counties from which it is taken shall be left with the required number of inhabitants entitling such county or counties to separate representation.

Article III

DISTRIBUTION OF POWERS OF GOVERNMENT

Section 1. The powers of the government of the State of Alabama shall be divided into three distinct departments, each of which shall be confided to a separate body of magistracy, to wit: Those which are legislative, to one; those which are executive, to another; and those which are judicial, to another.

Sec. 2. No person, or collection of persons, being of one of those departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

Article IV

LEGISLATIVE DEPARTMENT

Section 1. The legislative power of this State shall be vested in a General Assembly, which shall consist of a senate and house of representatives.

Sec. 2. The style of the laws of this State shall be: "*Be it enacted by the General Assembly of Alabama.*" Each law shall contain but one subject, which shall be clearly expressed in its title; and no law shall be revised or amended unless the new act contain the entire act revised, or the section or sections amended; and the section or sections so amended shall be repealed.

Sec. 3. Senators and Representatives shall be elected by the qualified electors, on the Tuesday after the first Monday in November. The term of office of the senators shall be four years, and that of the Representatives two years, commencing on the day after the general election.

Sec. 4. No person shall be a Representative unless he is eligible as an elector to vote for members of the General Assembly.

Sec. 5. No person shall be a Senator, unless he be eligible as an elector to vote for members of the General Assembly, and shall be twenty-seven years of age, and shall have resided for two years within the State, and for the last year thereof within the district for which he shall be chosen.

Sec. 6. The House of Representatives, when assembled, shall choose a speaker, and its other officers; and the Senate shall choose a president, in the absence of the lieutenant-governor, and its other officers; each house shall judge of the qualifications, elections and returns of its own members, but a contested election shall be determined in such manner as shall be directed by law. The president of the senate and the speaker of the House of Representatives shall remain in office until their successors are elected and qualified.

Sec. 7. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and

may compel the attendance of absent members, in such manner and under such penalties as each house may provide.

SEC. 8. Each house may determine the rules of its own proceedings, punish members for disorderly conduct, and, with the consent of two-thirds, expel a member; but not a second time for the same cause; and shall have all other powers necessary for a branch of the Legislature of a free and independent State.

SEC. 9. Each house, during the session, may punish by imprisonment, any person not a member, for disrespectful or disorderly behavior in its presence, or obstructing any of its proceedings: *Provided*, That such imprisonment shall not, at any time, exceed forty-eight hours.

SEC. 10. Each house shall keep a journal of its proceedings, and cause the same to be published immediately after its adjournment, excepting such parts as in its judgment may require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the desire of one-tenth of the members present, be entered on the journals. Any member of either house shall have liberty to dissent from, or protest against, any act or resolution, which he may think injurious to the public or an individual, and have the reasons of his dissent entered on the journals.

SEC. 11. Members of the General Assembly shall, in all cases, except treason, felony or breach of the peace, be privileged from arrest; and they shall not be subject to any civil process during the session of the General Assembly, nor for fifteen days next before the commencement and after the termination of each session.

SEC. 12. When vacancies occur in either house, the governor, or the person exercising the powers of the governor, shall issue writs of elections to fill such vacancies.

SEC. 13. The doors of each house shall be open, except on such occasions as in the opinion of the house may require secrecy.

SEC. 14. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

SEC. 15. Bills may originate in either house, and be amended, altered or rejected by the other; but no bill shall have the force of law, until on three several days it be read in each house, and free discussion be allowed thereon; unless in case of urgency, four-fifths of the house in which the bill shall be pending, may deem it expedient to dispense with this rule. And every bill, having passed both houses, shall be signed by the speaker and president of their respective houses: *Provided*, That all bills for raising revenue shall originate in the House of Representatives, but the Senate may amend or reject them as other bills.

SEC. 16. Every bill or resolution having the force of law, to which the concurrence of both houses of the General Assembly may be necessary, except on a question of adjournment, which shall have passed both houses, shall be presented to the governor, and if he approve, he shall sign it; if not, he shall return it with his objections, to the house in which it shall have originated, who shall enter the objections at large on the journals, and proceed to reconsider it. If after such reconsideration, a majority of the whole number of members of that house shall agree to pass it, it shall be sent, together

with the objections, to the other house, by which it shall be reconsidered, and if approved by a majority of the whole number of members of that house, it shall have the same effect as if it had been signed by the governor; but in all such cases, the votes of both houses shall be taken by yeas and nays, and the names of persons voting for and against the bill or resolution, shall be entered on the journals of both houses respectively. If the bill or resolution shall not be returned by the governor within five days (Sundays excepted) after it shall have been presented to him, it shall have the same force and effect as if he had signed it, unless the General Assembly by its adjournment, prevent its return, in which case it shall not be a law.

Sec. 17. Every order, resolution or vote, to which the concurrence of both houses may be necessary, (except on questions of adjournment, and for bringing on elections by the two houses,) shall be presented to the governor, and before it shall take effect be approved by him, or, being disapproved, shall be repassed by both houses, according to the rules and limitations prescribed in the case of bills.

Sec. 18. Each member of the General Assembly shall receive from the public treasury such compensation for his services as may be prescribed by law; but no increase of compensation shall take effect during the session at which such increase shall have been made.

Sec. 19. No Senator or Representative shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased during such term, except such office as may be filled by election by the people.

Sec. 20. No person who holds any lucrative office under the United States, or under this State, or any other State or government (except postmasters, officers in the militia to whose office no annual salary is attached, justices of the peace, members of the court of county commissioners, notaries public, and commissioners of deeds;) no person who have been convicted of having given or offered any bribe to procure his election to any office; no person who has been convicted of bribery, forgery, perjury, or other high crime, or misdemeanor, which may be by law declared to disqualify him; and no person who has been a collector, or holder of any public moneys, and has failed to account for and pay over to the treasury all sums for which he may be by law accountable, shall be eligible to the general assembly.

Sec. 21. The General Assembly shall meet annually, on such day as may be by law prescribed, and shall not remain in session longer than thirty days, except by a vote of two-thirds of each house.

Sec. 22. In all elections by the General Assembly, the members shall vote *viva voce*, and the votes shall be entered on the journals.

Sec. 23. All State officers may be impeached for any misdemeanor in office, but judgment shall not extend further than removal from office, and disqualification to hold office, under the authority of this State. The party impeached, whether convicted or not, shall be liable to indictment, trial and judgment, according to law.

Sec. 24. The House of Representatives shall have the sole power of preferring impeachment. All impeachments shall be tried by the Senate; the Senators, when sitting for that purpose, shall be on oath or affirmation; and no person shall be convicted under an impeachment without the concurrence of two-thirds of the Senators present.

Sec. 25. It shall be the duty of the General Assembly to pass such

laws as may be necessary and proper to decide differences by arbitrators, to be appointed by the parties who may choose that mode of adjustment.

SEC. 26. It shall be the duty of the General Assembly, from time to time, as circumstances may require, to frame and adopt a penal code founded on principles of reformation.

SEC. 27. It shall be the duty of the General Assembly, within five years after the adoption of this constitution, and within every subsequent period of ten years, to make provision by law for the revision, digesting and promulgation of all the public statutes of this State, both civil and criminal.

SEC. 28. The General Assembly shall have power to pass such penal laws as they may deem expedient, to suppress the evil practice of duelling.

SEC. 29. It shall be the duty of the General Assembly to regulate by law the cases in which deductions shall be made from the salaries of public officers for neglect of duty in their official capacities, and the amount of such deductions.

SEC. 30. Divorces from the bonds of matrimony shall not be granted but in cases by law provided for, and by suit in chancery; but decisions in chancery for divorce shall be final, unless appealed from in the manner prescribed by law, within three months from the date of the enrolment thereof.

SEC. 31. No money shall be drawn from the treasury but in pursuance of an appropriation made by law; and a regular statement and account of receipts and expenditures of all public moneys shall be published annually, in such manner as may be by law directed.

SEC. 32. The General Assembly shall not borrow or raise money on the credit of this State, except for purposes of military defence against actual or threatened invasion, rebellion or insurrection, without the concurrence of two-thirds of the members of each house; nor shall the debts or liabilities of any corporation, person or persons, or other States by guaranteed, nor any money, credit or other thing be loaned or given away, except by a like concurrence of each house; and the votes shall, in each case, be taken by the yeas and nays, and be entered on the journals.

SEC. 33. The State shall not engage in works of internal improvement; but its credit in aid of such may be pledged by the General Assembly on undoubted security, by a vote of two-thirds of each house of the General Assembly.

SEC. 34. It shall be the duty of the General Assembly to make adequate provisions in each county for the maintenance of the poor of this State.

SEC. 35. Any citizen of this State who shall, after the adoption of this Constitution, either in or out of this State, fight a duel with deadly weapons, or send, or accept a challenge so to do, or act as a second, or knowingly aid or assist in any manner those thus offending, shall be incapable of holding any office under this State.

SEC. 36. The General Assembly shall not have power to authorize any municipal corporation to pass any laws contrary to the general laws of the State, nor to levy a tax on real and personal property to a greater extent than two per centum of the assessed value of such property.

Sec. 37. In the event of annexation of any foreign territory to this State, the General Assembly shall enact laws extending to the inhabitants of the acquired territory all the rights and privileges which may be required by the terms of the acquisition, anything in this Constitution to the contrary notwithstanding.

Article V

EXECUTIVE DEPARTMENT

Section 1. The Executive Department shall consist of a Governor, Lieutenant-Governor, Secretary of State, Auditor, Treasurer, and Attorney-General, who shall be chosen by the electors of the State, at the time and places at which they shall vote for Representatives.

Sec. 2. The Governor, Lieutenant-Governor, Secretary of State, Treasurer, and Attorney-General shall hold their offices for the term of two years, and the Auditor for the term of four years.

Sec. 3. The returns of every election for the officers named in the preceding section, shall be sealed up and transmitted to the seat of Government, by the returning officers, directed to the presiding officer of the Senate, who, during the first week of the session, shall open and publish the same in the presence of a majority of the members of the General Assembly; the person having the highest number of votes shall be declared duly elected, but if two or more shall be highest and equal in votes for the same office, one of them shall be chosen by the joint vote of both houses. Contested elections for executive officers shall be determined by both houses of the General Assembly, in such manner as shall be prescribed by law.

Sec. 4. The supreme executive power of this State shall be vested in the Governor.

Sec. 5. He shall take care that the laws are faithfully executed.

Sec. 6. He may require information in writing, from the officers in the executive department, upon any subject relating to the duties of their respective offices.

Sec. 7. He shall communicate at every session, by message to the General Assembly, the condition of the State, and recommend such measures as he shall deem expedient.

Sec. 8. He may, on extraordinary occasions, convene the General Assembly by proclamation, and shall state to both houses, when assembled, the purposes for which they have been convened.

Sec. 9. In case of disagreement between the two houses, in respect to the time of adjournment, he shall have power to adjourn the General Assembly to such time as he may think proper, but not beyond the regular meetings thereof.

Sec. 10. He shall be commander-in-chief of the military and naval forces of the State, except when they shall be called into the service of the United States.

Sec. 11. He shall have power, after conviction, to grant reprieves, commutations and pardons for all offences, (except treason and cases of impeachment,) upon such conditions as he may think proper, subject, however, to such regulations as to the manner of applying for pardons as may be prescribed by law; but such pardons shall not relieve from civil or political disability. Upon conviction of

treason, he may suspend the execution of the sentence, and report the same to the general assembly at the next meeting, when the General Assembly shall either pardon, commute the sentence, direct its execution, or grant further reprieve. He shall communicate to the general assembly, at every regular session, each case of reprieve, commutation, or pardon granted, stating the name and crime of the convict, the sentence, its date, and the date of the commutation, pardon or reprieve, with his reasons therefor.

Sec. 12. There shall be a great seal of the State, which shall be kept and used by the Governor officially; and the seal heretofore in use, shall continue to be the great seal of the State until another shall have been adopted by the General Assembly.

Sec. 13. All grants and commissions shall be issued in the name and by the authority of the State of Alabama, sealed with the great seal, signed by the governor, and countersigned by the Secretary of State.

Sec. 14. No member of Congress, or other person, holding office under the authority of this State, or of the United States, shall execute the office of Governor, except as herein provided.

Sec. 15. In case of the death, impeachment, resignation, removal, or other disability of the Governor, the powers and duties of the office, for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve upon the Lieutenant-governor.

Sec. 16. The lieutenant-governor shall be president of the Senate, but shall vote only when the senate is equally divided; and in case of his absence or impeachment, or when he shall exercise the office of Governor, the senate shall choose a president *pro tempore*.

Sec. 17. If the Lieutenant-Governor, while executing the office of Governor, shall be impeached, displaced, resign or die, or otherwise become incapable of performing the duties of the office, the president of the Senate shall act as Governor until the vacancy is filled or the disability removed; and if the President of the Senate for any of the above causes shall be rendered incapable of performing the duties pertaining to the office of Governor, the same shall devolve upon the Speaker of the House of Representatives.

Sec. 18. Should the office of Secretary of State, Auditor, Treasurer, or Attorney-general become vacant from any of the causes specified in the fifteenth section of this article, the governor shall fill the vacancy until the disability is removed, or a successor elected and qualified. Every such vacancy shall be filled by election at the first general election that occurs more than thirty days after it shall have occurred, and the person chosen shall hold the office for the full term fixed in the second section of this article.

Sec. 19. The officers mentioned in this article shall, at stated times, receive for their services a compensation to be established by law, which shall neither be increased or diminished during the period for which they shall have been elected.

Sec. 20. The officers of the Executive Department, and of the public institutions of the State, shall, at least five days preceding each regular session of the General Assembly, severally report to the Governor, who shall transmit such reports with his message to the General Assembly.

Sec. 21. A sheriff shall be elected in each county by the qualified

electors thereof, who shall hold his office for the term of three years, unless sooner removed, and shall not be eligible to serve either as principal or deputy for any two successive terms. Vacancies in the office of sheriff shall be filled by the Governor as in other cases; and the person appointed shall continue in office until the next general election in the county for sheriff, as by law provided.

Article VI

JUDICIAL DEPARTMENT

Section 1. The judicial power of the State shall be vested in the Senate sitting as a court of impeachment, a Supreme Court, Circuit Courts, Chancery Courts, Courts of Probate, such inferior Courts of Law and Equity, to consist of not more than five members, as the General Assembly may from time to time establish, and such persons as may be by law invested with powers of a judicial nature.

Sec. 2. Except in cases otherwise directed in the Constitution, the Supreme Court shall have appellate jurisdiction only, which shall be coextensive with the State, under such restrictions and regulations not repugnant to this Constitution, as may from time to time be prescribed by law: *Provided*, That said court shall have power to issue writs of injunction, *mandamus*, *habeas corpus*, *quo warranto*, and such other remedial and original writs as may be necessary to give it a general superintendence and control of inferior jurisdiction.

Sec. 3. The Supreme Court shall be held at the seat of government, but if that shall have become dangerous from an enemy, or from disease, it may adjourn to a different place.

Sec. 4. The State shall be divided by the General Assembly into convenient circuits, each of which shall contain not less than three nor more than eight counties; and for each circuit there shall be chosen a judge, who shall, after his election or appointment, reside in the circuit for which he shall have been chosen.

Sec. 5. The Circuit Court shall have original judisdiction in all matters, civil and criminal, within the State, not otherwise excepted in the Constitution, but in civil cases only when the matter or sum in controversy exceeds fifty dollars: *Provided*, *however*, That the Circuit Court shall have equity jurisdiction concurrent with the Courts of Chancery in all cases for divorce, and cases in which the value of the matter in controversy does not exceed the sum of five thousand dollars.

Sec. 6. A Circuit Court shall be held in each county in the State at least twice in every year, and the Judges of the several circuits may hold courts for each other when they deem it expedient, and shall do so when directed by law: *Provided*, That the Judges of the several Circuit Courts shall have power to issue writs of injunction returnable into Courts of Chancery.

Sec. 7. The General Assembly shall have power to establish a Cour or Courts of Chancery with original and appellate jurisdiction. The State shall be divided by the General Assembly into convenient Chancery Divisions, and the Divisions into Districts; and for each division there shall be a Chancellor, who shall, after his election or

appointment, reside in the Division for which he shall have been elected or appointed.

Sec. 8. A Chancery Court shall be held in each county at a place therein to be fixed by law, and the Chancellors may hold courts for each other, when they deem it expedient.

Sec. 9. The General Assembly shall have power to establish in each county within the State a Court of Probate, with general jurisdiction for the granting of letters testamentary and of administration, and for orphans' business; and the General Assembly may confer on the said courts, jurisdiction of contracts for labor, and order frequent sessions for that purpose.

Sec. 10. The Judges of the Supreme Court, Circuit Courts, and Courts of Chancery, shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office; but they shall receive no fees or perquisites, nor hold any office (except judicial offices) of profit or trust under this State, or the United States, during the term for which they have been elected, nor under any other power during their continuance in office.

Sec. 11. Judges of the Supreme Court, and Chancellors, and Judges of the Circuit and Probate Courts, and of such other inferior courts as may be by law established, shall be elected by the qualified electors of the respective counties, cities, towns or districts, for which said courts may be established, on the Tuesday after the first Monday in November of each year, or such other day as may be by law prescribed. Vacancies in the office of the Circuit Judge, Judge of Probate, or Judge of any other inferior court established by law, shall be filled by the Governor; and the person appointed by him shall hold office until the next election day appointed by law for election of Judge, and until his successor shall have been elected and qualified.

Sec. 12. The Judges of the several Courts of this State shall hold their office for the term of six years; and the right of any Judge to hold his office for the full term hereby prescribed, shall not be affected by any change hereafter made by law in any Circuit or District, or in the mode or time of election; but for any wilful neglect of duty, or any other reasonable cause which shall not be a sufficient ground of impeachment, the Governor shall remove any judge on the address of two-thirds of each house of the General Assembly: *Provided*, That the cause or causes for which said removal may be required, shall be stated at length in such address, and entered on the journals of each house: *And provided further*, That the judge intended to be removed shall be notified of such cause or causes, and shall be admitted to a hearing in his own defence, before any vote for such address; and in all such cases the vote shall be taken by yeas and nays, and be entered on the journal of each house respectively.

Sec. 13. A competent number of justices and constables shall be elected in and for each county by the qualified electors thereof, who shall hold office during such terms as may be prescribed by law. Said justices shall have jurisdiction in all civil cases wherein the amount in controversy does not exceed one hundred dollars. In all cases tried before such justices the right of appeal shall be secured by law: *Provided*, That notaries public appointed according to law shall be authorized and required to exercise, throughout their respective counties, all the powers and jurisdiction of justices of the peace.

SEC. 14. The judges of the Supreme Court shall, by virtue of their offices, be conservators of the peace throughout the State; as also the judges of the Circuit Courts within their respective circuits, and the judges of the inferior courts within their respective counties.

SEC. 15. The clerk of the Supreme Court shall be appointed by the judges thereof; registers in chancery, by the chancellors of the divisions; and all the clerks and registers so appointed shall be removed by the appointing power for cause to be placed on the records of the court.

SEC. 16. The Attorney-General shall reside at the seat of government, and shall be the law-officer of the State. During the session of the General Assembly, he shall furnish to the committees of either house, when required, draughts of bills and written opinions upon any matter under consideration of the committees, and shall perform such other duties as may be required of him by law.

SEC. 17. A solicitor shall be elected in each county in this State by the qualified electors of such county, who shall reside in the county for which he is elected, and perform such duties as may be required of him by law. He shall hold office for a term of four years, and in case of vacancy, such vacancy shall be filled by the judge of the circuit until his successor is elected and qualified.

SEC. 18. Clerks of the Circuit Court, and such inferior courts as may be by law established, shall be elected by the qualified electors in each county, for the term of six years, and may be removed from office for cause, and in such manner as may be by law prescribed. Vacancies in the office of clerk shall be filled by the judge of the circuit, until the next general election, and until a successor shall be elected and qualified: *Provided*, That the General Assembly shall have power to annex the duties of clerk to the office of judge of any of the inferior courts by law established.

SEC. 19. The style of all processes shall be "*The State of Alabama*," and all prosecutions shall be carried on in the name and by the authority of the State of Alabama, and shall conclude "against the peace and dignity of the same."

ARTICLE VII

ELECTIONS

SECTION 1. In all elections by the people, the electors shall vote by ballot.

SEC. 2. Every male person, born in the United States, and every male person who has been naturalized, or who has legally declared his intention to become a citizen of the United States, twenty-one years old or upward, who shall have resided in this State six months next preceding the election, and six months in the county in which he offers to vote, except as hereinafter provided, shall be deemed an elector: *Provided*, That no soldier, or sailor, or marine in the military or naval service of the United States, shall hereafter acquire a residence by reason of being stationed on duty in this State.

SEC. 3. It shall be the duty of the General Assembly to provide, from time to time, for the registration of all electors; but the following class of persons shall not be permitted to register, vote or hold

office: 1st. Those who, during the late rebellion, inflicted, or caused to be inflicted, any cruel or unusual punishment upon any soldier, sailor, marine, employé or citizen of the United States, or who in any other way violated the rules of civilized warfare. 2d, Those who may be disqualified from holding office by the proposed amendment to the Constitution of the United States, known as "Article XIV," and those who have been disqualified from registering to vote for delegates to the convention to frame a constitution for the State of Alabama, under the act of Congress "to provide for the more efficient government of the rebel States," passed by Congress March 2, 1867, and the act supplementary thereto, except such persons as aided in the reconstruction proposed by Congress, and accept the political equality of all men before the law: *Provided*, That the General Assembly shall have power to remove the disabilities incurred under this clause. 3d, Those who shall have been convicted of treason, embezzlement of public funds, malfeasance in office, crime punishable by law with imprisonment in the penitentiary, or bribery. 4th, Those who are idiots or insane.

Sec. 4. All persons, before registering, must take and subscribe the following oath: I, ——— ———, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of the State of Alabama; that I am not excluded from registering by any of the clauses in section 3, Article VII, of the Constitution of the State of Alabama; that I will never countenance or aid in the secession of this State from the United States; that I accept the civil and political equality of all men; and agree not to attempt to deprive any person or persons, on account of race, color, or previous condition, of any political or civil right, privilege, or immunity, enjoyed by any other class of men; and furthermore, that I will not in any way injure, or countenance in others any attempt to injure, any person or persons, on account of past or present support of the Government of the United States, the laws of the United States, or the principle of the civil and political equality of all men, or for affiliation with any political party.

Sec. 5. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest and civil process during their attendance at elections, and in going to and returning from the same.

Sec. 6. It shall be the duty of the General Assembly to enact adequate laws giving protection against the evils arising from the use of intoxicating liquors at elections.

Sec. 7. Returns of elections for all civil officers elected by the people, who are to be commissioned by the Governor, and also for the members of the General Assembly, shall be made to the Secretary of State.

Article VIII

REPRESENTATION

Section 1. The House of Representatives shall consist of not more than one hundred members, who shall be apportioned by the General Assembly among the several counties of the State, according to the number of inhabitants in them respectively; and to this end the General Assembly shall cause an enumeration of all the inhabitants

of the State to be made in the year 1875, and every ten years thereafter, and shall make an apportionment of the representatives among the several counties at the first regular session after each enumeration; which apportionment, when made, shall not be subject to alteration until after the next census shall have been taken: *Provided*, That each county shall be entitled to at least one representative: *And provided, further*, That when two or more adjoining counties shall each have a residuum, or fraction over and above the ratio then fixed by law, which fractions, when added together, equal, or exceed that ratio, in that case the county having the largest fraction shall be entitled to one additional representative.

Sec. 2. Until the General Assembly shall make an apportionment of the representatives among the several counties, after the first enumeration made as herein provided, the counties of Autauga, Baldwin, Bibb, Blount, Butler, Calhoun, Clay, Clarke, Cherokee, Cleburne, Crenshaw, Choctaw, Coffee, Conecuh, Coosa, Covington, Dale, De Kalb, Elmore, Fayette, Henry, Jefferson, Lauderdale, Limestone, Marshall, Marion, Monroe, Morgan, Pike, Randolph, Saint Clair, Shelby, Walker, Washington and Winston, shall have one representative each; the counties of Chambers, Franklin, Greene, Hale, Jackson, Lee, Lawrence, Macon, Pickens, Russell, Talladega, Tallapoosa and Tuscaloosa, shall be entitled to two representatives each; the counties of Barbour, Bullock, Lowndes, Madison, Marengo, Perry, Sumter and Wilcox, shall be entitled to three representatives each; the counties of Dallas, Mobile and Montgomery, shall be entitled to five representatives each: *Provided*, That in the formation of new counties, the General Assembly may apportion to each its proper representation.

Sec. 3. The whole number of Senators shall be not less than one-fourth or more than one-third of the whole number of representatives; and it shall be the duty of the General Assembly, at its first session after the making of each enumeration, as provided by section first of this article, to fix by law the number of Senators, and to divide the State into as many senatorial districts as there are Senators; which districts shall be as nearly equal to each other as may be in the number of inhabitants, and each shall be entitled to one Senator, and no more: *Provided*, That no county shall be divided, and no two or more counties, which are separated entirely by a county belonging to another district, shall be joined in one district: *And provided, further*, That the senatorial districts, when formed, shall not be changed until after the next enumeration shall have been taken.

Sec. 4. At the first general election after each new apportionment, elections shall be held anew in all the senatorial districts. The Senators elected, when convened at the next ensuing session of the General Assembly, shall be divided by lot into two classes, as nearly equal as may be; the seats of the Senators of the first class shall be vacated at the expiration of two years, and those of the second class at the expiration of four years, from the day of election, so that (except as above provided,) one-half of the Senators may be chosen biennially.

Sec. 5. Until the General Assembly shall divide the State into senatorial districts as herein provided, the senatorial districts shall remain as follows: 1st district, Limestone and Lauderdale; 2d, Franklin and

Lawrence; 3d, Morgan, Blount, Winston and Marion; 4th, Madison; 5th, Jackson, Marshall and De Kalb; 6th, Cherokee and Calhoun; 7th, Walker, Jefferson and Saint Clair; 8th, Shelby and Bibb; 9th, Tuscaloosa and Fayette; 10th, Talledega and Clay; 11th, Chambers, Randolph and Cleburne; 12th, Coosa and Tallapoosa; 13th, Lee; 14th, Macon; 15th, Russell; 16th, Bullock; 17th, Barbour; 18th, Autauga and Elmore; 19th, Montgomery; 20th, Lowndes; 21st, Dallas; 22d, Perry; 23d, Hale; 24th, Greene and Pickens; 25th, Sumter; 26th, Marengo; 27th, Choctaw, Clarke and Washington; 28th, Mobile; 29th, Monroe and Baldwin; 30th, Wilcox; 31st, Butler and Conecuh; 32d, Covington, Crenshaw and Pike; 33d, Coffee, Dale and Henry.

Sec. 6. Until a new apportionment of representatives to the Congress of the United States shall have been made, the congressional districts shall remain as stated in the Revised Code of Alabama, and after each new apportionment, the General Assembly shall divide the State into as many districts as it is allowed Representatives in Congress, making such congressional districts as nearly equal in the number of inhabitants as may be.

Article IX

TAXATION

Section 1. All taxes levied on property in this State, shall be assessed in exact proportion to the value of such property: *Provided, however*, That the General Assembly may levy a poll-tax not to exceed one dollar and fifty cents on each poll, which shall be applied exclusively in aid of the public-school fund.

Sec. 2. No power to levy taxes shall be delegated to individuals or private corporations.

Article X

MILITIA

Section 1. All able-bodied male inhabitants of this State, between the ages of eighteen years and forty-five years, who are citizens of the United States, or who have declared their intention to become citizens of the United States, shall be liable to military duty in the militia of this State; but all citizens of any denomination whatever, who, from scruples or conscience, may be averse to bearing arms, shall be exempt therefrom upon such conditions as may be prescribed by law.

Sec. 2. The General Assembly shall provide for the organizing, arming, equipping, and discipline of the militia, and for paying the same, when called into active service, in such manner as it shall deem expedient, not incompatible with the laws of the United States.

Sec. 3. Officers of the militia shall be elected or appointed and commissioned in such manner as may be provided by the General Assembly.

Sec. 4. The Governor shall be commander-in-chief of the army and navy of this State, and of the militia, except when called into the service of the United States, and shall have power to call forth the

militia to execute the laws, to suppress riots, or insurrections, and to repel invasion.

Sec. 5. The Governor shall nominate, and, by and with the consent of the Senate, appoint one Major-General and three Brigadier-Generals. The Adjutant-General, and other staff officers to the commander-in-chief, shall be appointed by the Governor, and their commissions shall expire with the Governor's term of office. No commissioned officer shall be removed from office except by the Senate, on the recommendation of the Governor, stating the grounds on which such removal is recommended, or by the decision of a court-martial pursuant to law.

Sec. 6. The militia may be divided into two classes, to be designated as "volunteer militia" and "reserve militia," in such manner as shall be provided by law.

Sec. 7. The militia shall, in all cases, except felony, treason, or breach of the peace, be privileged from arrest during their attendance at musters and elections of officers, and in going to and returning from the same.

Sec. 8. The officers and men commissioned and organized shall not be entitled to receive any pay, rations, or emoluments when not in active service.

Article XI

EDUCATION

Section 1. The common schools, and other educational institutions of the State, shall be under the management of a Board of Education, consisting of a Superintendent of Public Instruction and two members from each Congressional District.

The Governor of the State shall be *ex officio*, a member of the Board, but shall have no vote in its proceedings.

Sec. 2. The Superintendent of Public Instruction shall be President of the Board of Education, and have the casting vote in case of a tie; he shall have the supervision of the public schools of the State, and perform such other duties as may be imposed upon him by the board and the laws of the State. He shall be elected in the same manner and for the same term as the Governor of the State, and receive such salary as may be fixed by law. An office shall be assigned him in the capitol of the State.

Sec. 3. The members of the Board shall hold office for a term of four years, and until their successors shall be elected and qualified. After the first election under the Constitution, the Board shall be divided into two equal classes, so that each class shall consist of one member from each District. The seats of the first class shall be vacated at the expiration of two years from the day of election, so that one-half may be chosen biennially.

Sec. 4. The members of the Board of Education, except the Superintendent, shall be elected by the qualified electors of the Congressional Districts in which they are chosen, at the same time and in the same manner as the members of Congress.

Sec. 5. The Board of Education shall exercise full legislative powers in reference to the public educational institutions of the State, and

its acts, when approved by the governor, or when re-enacted by two-thirds of the Board, in case of his disapproval, shall have the force and effect of law, unless repealed by the General Assembly

Sec. 6. It shall be the duty of the Board to establish, throughout the State, in each township or other school-district which it may have created, one or more schools, at which all the children of the State between the ages of five and twenty-one years may attend free of charge.

Sec. 7. No rule or law affecting the general interest of education shall be made by the board without the concurrence of a majority of its members. The style of all acts of the Board shall be, "*Be it enacted by the Board of Education of the State of Alabama.*"

Sec. 8. The Board of education shall be a body politic and corporate, by the name and style of "The Board of Education of the State of Alabama." Said Board shall also be a Board of Regents of the State University, and when sitting as a Board of Regents of the University shall have power to appoint the president and the faculties thereof. The President of the University shall be, *ex officio*, a member of the board of regents, but shall have no vote in its proceedings.

Sec. 9. The Board of Education shall meet annually at the seat of government at the same time as the General Assembly, but no session shall continue longer than twenty days, nor shall more than one session be held in the same year, unless authorized by the Governor. The members shall receive the same mileage and daily pay as the members of the General Assembly.

Sec. 10. The proceeds of all lands that have been or may be granted by the United States to the State for educational purposes; of the swamp-lands; and of all lands or other property given by individuals or appropriated by the State for like purposes; and of all estates of deceased persons who have died without leaving a will or heir; and all moneys which may be paid as an equivalent for exemption from military duty, shall be and remain a perpetual fund, which may be increased but not diminished, and the interest and income of which, together with the rents of all such lands as may remain unsold, and such other means as the General Assembly may provide, shall be inviolably appropriated to educational purposes, and to no other purpose whatever.

Sec. 11. In addition to the amount accruing from the above sources, one-fifth of the aggregate annual revenue of the State shall be devoted exclusively to the maintenance of public schools.

Sec. 12. The general assembly may give power to the authorities of the school-districts to levy a poll-tax on the inhabitants of the district in aid of the general school-fund, and for no other purpose.

Sec. 13. The General Assembly shall levy a specific annual tax upon all railroad, navigation, banking, and insurance corporations, and upon all insurance and foreign bank and exchange agencies, and upon the profits of foreign bank bills issued in this State by any corporation, partnership or persons, which shall be exclusively devoted to the maintenance of public schools.

Sec. 14. The General Assembly shall, as soon as practicable, provide for the establishment of an agricultural college, and shall appropriate the two hundred and forty thousand acres of land donated to

this State for the support of such a college, by the act of Congress, passed July 2, 1862, or the money or scrip, as the case may be, arising from the sale of said land, or any lands which may hereafter be granted or appropriated for such purpose, for the support and maintenance of such college, or schools, and may make the same a branch of the University of Alabama for instruction in agriculture, in the mechanic arts, and the natural sciences connected therewith, and place the same under the supervision of the regents of the university.

Article XII

INDUSTRIAL RESOURCES

Section 1. A Bureau of Industrial Resources shall be established, to be under the management of a Commissioner, who shall be elected at the first general election, and shall hold his office for the term of four years.

Sec. 2. The Commissioner of Industrial Resources shall collect and condense statistical information concerning the productive industries of the State; and shall make, or cause to be made, a careful, accurate, and thorough report upon the agriculture and geology of the State, and annually report such additions as the progress of scientific development and extended explorations may require. He shall, from time to time, disseminate among the people of the State such knowledge as he may deem important, concerning improved machinery and production, and for the promotion of their agricultural, manufacturing, and mining interests; and shall send out to the people of the United States and foreign countries such reports concerning the industrial resources of Alabama as may best make known the advantages offered by the State to emigrants; and shall perform such other duties as the General Assembly may require.

Sec. 3. It shall be the duty of the General Assembly, at the first session after the adoption of this Constitution, to pass such laws and regulations as may be necessary for the government and protection of this bureau, and also to fix and provide for the compensation of the commissioner.

Sec. 4. This bureau shall be located, and the commissioner shall reside at the capital of the State, and he shall annually make a written or printed report to the Governor of the State, to be laid before the General Assembly at each session.

Sec. 5. In case of the death, removal, or resignation of the commissioner, the Governor, with the approval of the Senate, shall have power to appoint a commissioner for the unexpired term.

Article XIII

CORPORATIONS

Section 1. Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes. All general laws, and special acts passed pursuant to this section, may be altered, amended, or repealed.

SEC. 2. Dues from corporations shall be secured by such individual liabilities of the corporators or other means as may be prescribed by law.

SEC. 3. Each stockholder in any corporation shall be liable to the amount of stock held or owned by him.

SEC 4. The property of corporations now existing, or hereafter created, shall forever be subject to taxation the same as property of individuals, except corporations for educational and charitable purposes.

SEC. 5. No right of way shall be appropriated to the use of any corporation, until full compensation therefor be first made in money, or secured by a deposit of money to the owner, irrespective of any benefit from any improvement proposed by such corporation; which compensation shall be ascertained by a jury of twelve men in a court of record, as shall be prescribed by law.

SEC. 6. The General Assembly shall not have power to establish or incorporate any bank or banking company, or moneyed institution, for the purpose of issuing bills of credit or bills payable to order or bearer, except under the conditions prescribed in this Constitution.

SEC. 7. No bank shall be established, otherwise than under a general banking law, as provided in the first section of this article.

SEC. 8. The General Assembly may enact a general banking law, which law shall provide for the registry and countersigning by the Governor of the State of all paper credit designed to be created as money; and ample collateral security, convertible into specie, or the redemption of the same in gold or silver, shall be required, and such collateral security shall be under the control of such officer or officers as may be prescribed by law.

SEC. 9. All bills or notes issued as money, shall be at all times redeemable in gold or silver, and no law shall be passed sanctioning, directly or indirectly, the suspension by any bank or banking company, of specie payment.

SEC. 10. Holders of bank-notes shall be entitled, in case of insolvency, to preference of payment over all other creditors.

SEC. 11. Every bank or banking company shall be required to cease all banking operations within twenty years from the time of its organization, and promptly thereafter close its business.

SEC. 12. No bank shall receive, directly or indirectly, a greater rate of interest than shall be allowed by law to individuals for lending money.

SEC. 13. The State shall not be a stockholder in any bank, nor shall the credit of the State ever be given or lent to any banking company, association, or corporation, except for the purpose of expediting the construction of railroads, or works of internal improvement, within the State, and the credit of the State shall, in no case, be given or lent without the approval of two-thirds of both houses of the general assembly.

SEC. 15. All corporations shall have the right to sue and shall be subject to be sued, in all courts, in like cases as natural persons.

SEC. 16. It shall be the duty of the General Assembly to provide for the organization of cities and incorporated towns, and to restrict their power of taxation, assessment, and contracting of debt.

Article XIV

EXEMPTED PROPERTY

Section 1. The personal property of any resident of this State to the value of one thousand dollars, to be selected by such resident, shall be exempted from sale on execution, or other final process of any court, issued for the collection of any debt contracted after the adoption of this Constitution.

Sec. 2. Every homestead, not exceeding eighty acres of land, and the dwelling and appurtenances thereon, to be selected by the owner thereof, and not in any town, city, or village, or in lieu thereof, at the option of the owner, any lot in the city, town, or village, with the dwelling and appurtenances thereon, owned and occupied by any resident of this State, and not exceeding the value of two thousand dollars, shall be exempted from sale, on execution, or any other final process from a court, from any debt contracted after the adoption of this Constitution. Such exemption, however, shall not extend to any mortgage lawfully obtained, but such mortgage or other alienation of such homestead, by the owner thereof, if a married man, shall not be valid without the voluntary signature and assent of the wife of the same.

Sec. 3. The homestead of a family, after the death of the owner thereof, shall be exempt from the payment of any debts contracted after the adoption of this Constitution, in all cases, during the minority of the children.

Sec. 4. The provisions of sections 1 and 2 of this article shall not be so construed as to prevent a laborers' lien for work done and performed for the person claiming such exemption, or a mechanics' lien for work done on the premises.

Sec. 5. If the owner of a homestead die, leaving a widow, but no children, the same shall be exempt, and the rents and profits thereof shall inure to her benefit.

Sec. 6. The real and personal property of any female in this State, acquired before marriage, and all property, real and personal, to which she may afterward be entitled by gift, grant, inheritance, or devise, shall be and remain the separate estate and property of such female, and shall not be liable for any debts, obligations, and engagements of her husband, and may be devised or bequeathed by her the same as if she were a *femme sole*.

Article XV

OATH OF OFFICE

Section 1. All civil officers of this State, legislative, executive, and judicial, before they enter upon the execution of the duties of their respective offices, shall take the following oath:

I, ——— ———, do solemnly swear (or affirm) that I am not disfranchised by the constitution of Alabama, or by the Constitution or laws of the United States; that I will honestly and faithfully support and defend the Constitution and laws of the United States, the Union of the States, and the Constitution and laws of the State of Alabama, so long as I remain a citizen thereof; and that I will honestly and faithfully discharge the duties of the office upon which I am about to enter to the best of my ability. So help me God.

Article XVI

AMENDMENTS TO THE CONSTITUTION

Section 1. The General Assembly, whenever two-thirds of each house shall deem it necessary, may propose amendments to this Constitution, which proposed amendments shall be duly published in print at least three months before the next general election of representatives, for the consideration of the people; and it shall be the duty of the several returning officers at the next general election which shall be held for representatives, to open a poll for, and make a return to the Secretary of State for the time being, of the names of all those voting for representative who have voted on such proposed amendments, and if thereupon it shall appear that a majority of all the citizens of the State voting for representatives have voted in favor of such proposed amendments, and two-thirds of each house of the next General Assembly shall, after such an election, and before another, ratify the same amendments, by yeas and nays, they shall be valid to all intents and purposes, as part of this Constitution: *Provided*, That the said proposed amendments shall, at each of the said sessions, have been read three times on three several days in each house.

After the expiration of twelve months from the adoption of this Constitution, no Convention shall be held for the purpose of altering or amending the Constitution of this State, unless the question of Convention or no Convention shall be first submitted to a vote of all the electors, twenty-one years of age and upward, and approved by a majority of the electors voting at said election.

E. W. Peck, *President.*

Robert Barber, *Secretary.*

CONSTITUTION OF ALABAMA—1875 * [a]

PREAMBLE

We, the people of the State of Alabama, in order to establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and to secure to ourselves and to our posterity life, liberty, and property, profoundly grateful to Almighty God for this inestimable right, and invoking His favor and guidance, do ordain and establish the following constitution and form of government for the State of Alabama.

---

* Verified by the "Journal of the Constitutional Convention of the State of Alabama, assembled in the city of Montgomery, September 6, 1875. Montgomery, Alabama, W. W. Screws, State Printer, 1875." Pp. 175–214.

[a] This constitution was framed by a convention which met at Montgomery September 6, 1875, and completed its labors October 2, 1875. It was submitted to the people of Alabama and ratified November 16, 1875, receiving 95,672 votes against 30,004 votes, and went into operation December 6, 1875.

Article I

declaration of rights

That the great, general, and essential principles of liberty and free government may be recognized and established, we declare—

Section 1. That all men are equally free and independent; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness.

Sec. 2. That all persons resident in this State, born in the United States, or naturalized, or who shall have legally declared their intention to become citizens of the United States, are hereby declared citizens of the State of Alabama, possessing equal civil and political rights.

Sec. 3. That all political power is inherent in the people, and all free governments are founded on their authority and instituted for their benefit; and that, therefore, they have, at all times, an inalienable and indefeasible right to change their form of government, in such manner as they may deem expedient.

Sec. 4. That no religion shall be established by law; that no preference shall be given by law to any religious sect, society, denomination, or mode of worship; that no one shall be compelled by law to attend any place of worship, nor to pay any tithes, taxes, or other rate, for building or repairing any place of worship, or for maintaining any minister or ministry; that no religious test shall be required as a qualification to any office or public trust under this State; and that the civil rights, privileges, and capacities of any citizen shall not be in any manner affected by his religious principles.

Sec. 5. That any citizen may speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

Sec. 6. That the people shall be secure in their persons, houses, papers, and possessions from unreasonable seizures or searches, and that no warrant shall issue to search any place, or to seize any person or thing, without probable cause, supported by oath or affirmation.

Sec. 7. That in all criminal prosecutions the accused has a right to be heard by himself and counsel, or either; to demand the nature and cause of the accusation; to have a copy thereof; to be confronted by witnesses against him; to have compulsory process for obtaining witnesses in his favor; and in all prosecutions by indictment a speedy public trial by an impartial jury of the county or district in which the offence was committed; and that he shall not be compelled to give evidence against himself, nor be deprived of his life, liberty, or property, but by due process of law.

Sec. 8. That no person shall be accused or arrested, or detained, except in cases ascertained by law, and according to the forms which the same has prescribed; and no person shall be punished but by virtue of a law established and promulgated prior to the offence, and legally applied.

Sec. 9. That no person shall, for any indictable offence, be proceeded against criminally, by information, except in cases arising in the militia and volunteer forces when in actual service, or by leave of the court, for misfeasance, misdemeanor, extortion, and oppression in office, otherwise than as is provided in this constitution: *Provided*, That in cases of petit larceny, assault, assault and battery, affray,

unlawful assemblies, vagrancy, and other misdemeanors, the General Assembly may, by law, dispense with a grand jury, and authorize such prosecutions and proceedings before justices of the peace or such other inferior courts as may be by law established.

SEC. 10. That no person shall, for the same offence, be twice put in jeopardy of life or limb.

SEC. 11. That no person shall be debarred from prosecuting or defending, before any tribunal in the State, by himself or counsel, any civil cause or proceeding to which he is a party.

SEC. 12. That the right of trial by jury shall remain inviolate.

SEC. 13. That in prosecutions for the publication of papers investigating the official conduct of officers, or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence; and that in all indictments for libel the jury shall have the right to determine the law and the facts under the direction of the court.

SEC. 14. That all courts shall be open, and that every person, for any injury done him in his lands, goods, person, or reputation, shall have a remedy by due process of law; and right and justice shall be administered without sale, denial, or delay.

SEC. 15. The State of Alabama shall never be made defendant in any court of law or equity.

SEC. 16. That excessive fines shall not be imposed, nor cruel or unusual punishments inflicted.

SEC. 17. That all persons shall, before conviction, be bailable by sufficient sureties, except for capital offences when the proof is evident or the presumption great. Excessive bail shall not, in any case, be required.

SEC. 18. The privilege of the writ of *habeas corpus* shall not be suspended by the authorities of this State.

SEC. 19. That treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort; and that no person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or his own confession in open court.

SEC. 20. That no person shall be attainted of treason by the General Assembly; and that no conviction shall work corruption of blood or forfeiture of estate.

SEC. 21. That no person shall be imprisoned for debt.

SEC 22. That no power of suspending laws shall be exercised, except by the General Assembly.

SEC. 23. That no *ex post facto* law, nor any law impairing the obligation of contracts, or making any irrevocable grants of special privileges or immunities, shall be passed by the General Assembly.

SEC. 24. The exercise of the right of eminent domain shall never be abridged or so construed as to prevent the General Assembly from taking the property and franchises of incorporated companies and subjecting them to public use the same as individuals. But private property shall not be taken for or applied to public use, unless just compensation be first made therefor; nor shall private property be taken for private use, or for the use of corporations, other than municipal, without the consent of the owners: *Provided, however*, That the general assembly may, by law, secure to persons or corporations the right of way over the lands of other persons or

corporations, and by general laws provide for and regulate the exercise by persons and corporations of the rights herein reserved; but just compensation shall, in all cases, be first made to the owner: *And provided*, That the right of eminent domain shall not be so construed as to allow taxation or forced subscription for the benefit of railroads or any other kind of corporations other than municipal, or for the benefit of any individual or association.

Sec. 25. That all navigable waters shall remain forever public highways, free to the citizens of the State, and of the United States, without tax, impost, or toll, and that no tax, toll, impost, or wharfage shall be demanded or received from the owner of any merchandise or commodity, for the use of the shores, or any wharf erected on the shores, or in or over the waters of any navigable stream, unless the same be expressly authorized by law.

Sec. 26. That the citizens have a right in a peaceable manner, to assemble together for the common good, and to apply to those invested with the power of government for redress of grievances, or other purposes, by petition, address, or remonstrance.

Sec. 27. That every citizen has a right to bear arms in defence of himself and the State.

Sec. 28. That no standing army shall be kept up without the consent of the general assembly; and, in that case, no appropriation for its support shall be made for a longer term than one year; and the military shall, in all cases and at all times, be in strict subordination to the civil power.

Sec. 29. That no soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

Sec. 30. That no title of nobility, or hereditary distinction, privilege, honor, or emolument, shall ever be granted or conferred in this State; and that no office shall be created, the appointment to which shall be for a longer time than during good behavior.

Sec. 31. That immigration shall be encouraged, emigration shall not be prohibited, and no citizen shall be exiled.

Sec. 32. That temporary absence from the State shall not cause a forfeiture of residence once obtained.

Sec. 33. That no form of slavery shall exist in this State, and there shall be no involuntary servitude, otherwise than for the punishment of crime, of which the party shall have been duly convicted.

Sec. 34. The right of suffrage shall be protected by laws regulating elections, and prohibiting, under adequate penalties, all undue influences from power, bribery, tumult, or other improper conduct.

Sec. 35. The people of this State accept as final the established fact that from the Federal Union there can be no secession of any State.

Sec. 36. Foreigners who are or may hereafter become *bona-fide* residents of this State shall enjoy the same rights, in respect to the possession, enjoyment, and inheritance of property, as native-born citizens.

Sec. 37. That the sole object and only legitimate end of government is to protect the citizens in the enjoyment of life, liberty, and property; and when the government assumes other functions it is usurpation and oppression.

SEC. 38. No educational or property qualification for suffrage or office, nor any restraint upon the same, on account of race, color, or previous condition of servitude, shall be made by law.

SEC. 39. That this enumeration of certain rights shall not impair or deny others retained by the people.

ARTICLE II

STATE AND COUNTY BOUNDARIES

SECTION 1. The boundaries of this State are established and declared to be as follows, that is to say: Beginning at the point where the 31st degree of north latitude crosses the Perdido River; thence east to the western boundary-line of the State of Georgia; thence along said line to the southern boundary-line of the State of Tennessee; thence west along the southern boundary-line of the State of Tennessee, crossing the Tennessee River, and on to the second intersection of said river by said line; thence up said river to the mouth of Big Bear Creek; thence by a direct line to the northwest corner of Washington County in this State, as originally formed; thence southerly along the line of the State of Mississippi to the Gulf of Mexico; thence eastwardly, including all islands within six leagues of the shore, to the Perdido River; thence up the said river to the beginning.

SEC. 2. The boundaries of the several counties of this State, as heretofore established by law, are hereby ratified and confirmed. The general assembly may, by a vote of two-thirds of both houses thereof, arrange and designate boundaries for the several counties of this State, which boundaries shall not be altered, except by a like vote; but no new counties shall be hereafter formed of less extent than six hundred square miles, and no existing county shall be reduced to less extent than six hundred square miles, and no new county shall be formed which does not contain a sufficient number of inhabitants to entitle it to one representative, under the ratio of representation existing at the time of its formation, and leave the county or counties from which it is taken with the required number of inhabitants entitling such county or counties to separate representation.

ARTICLE III

DISTRIBUTION OF POWERS OF GOVERNMENT

SECTION 1. The powers of the government of the State of Alabama shall be divided into three distinct departments, each of which shall be confided to a separate body of magistracy, to wit: Those which are legislative to one; those which are executive to another; and those which are judicial to another.

SEC. 2. No person or collection of persons, being of one of those departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

Article IV

LEGISLATIVE DEPARTMENT

Section 1. The legislative power of this State shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives.

Sec. 2. The style of the laws of this State shall be, "*Be it enacted by the general assembly of Alabama;*" each law shall contain but one subject, which shall be clearly expressed in its title, except general appropriation bills, general revenue bills, and bills adopting a code digest or revision of statutes; and no law shall be revived, amended, or the provisions thereof extended or conferred by reference to its title only; but so much thereof as is revived, amended, extended, or conferred, shall be re-enacted and published at length.

Sec. 3. Senators and representatives shall be elected by the qualified electors on the first Monday in August, 1876, and one-half of the senators and all the representatives shall be elected every two years thereafter, unless the general assembly shall change the time of holding elections. The terms of the office of the senators shall be four years, and that of the representatives two years, commencing on the day after the general election, except as otherwise provided in this constitution.

Sec. 4. Senators shall be at least 27 years of age, and representatives 21 years of age; they shall have been citizens and inhabitants of this State for three years, and inhabitants of their respective counties or districts one year next before their election, if such county or district shall have been so long established, but if not, then of the county or district from which the same shall have been taken; and they shall reside in their respective counties or districts during their terms of service.

Sec. 5. The General Assembly shall meet biennially at the capitol, in the senate chamber and in the hall of the house of representatives, (except in cases of destruction of the capitol or epidemics, when the governor may convene them at such place in the State as he may deem best,) on the day specified in this constitution, or on such other day as may be prescribed by law, and shall not remain in session longer than sixty days at the first session held under this constitution, nor longer than fifty days at any subsequent session.

Sec. 6. The pay of the members of the general assembly shall be four dollars per day, and ten cents per mile in going to and returning from the seat of government, to be computed by the nearest usual route travelled.

Sec. 7. The General Assembly shall consist of not more than thirty-three senators, and not more than one hundred members of the house of representatives, to be apportioned among the several districts and counties as prescribed in this constitution.

Sec. 8. The senate, at the beginning of each regular session, and at such other times as may be necessary, shall elect one of its members president thereof, and the house of representatives, at the beginning of each regular session, shall elect one of its members as speaker; and the president of the senate and the speaker of the house of representatives shall hold their offices respectively until their successors are elected and qualified. Each house shall choose its own officers, and shall judge of the election, returns, and qualifications of its members.

SEC. 9. At the general election in the year 1876, Senators shall be elected in the even-numbered districts to serve for two years, and in the odd-numbered districts to serve for four years, so that thereafter one-half the Senators may be chosen biennially. Members of the House of Representatives shall be elected at the general election every second year. The time of service of Senators and Representatives shall begin on the day after their election, except the terms of those elected in 1876, which shall not begin until the term of the present members shall have expired. Whenever a vacancy shall occur in either house, the Governor for the time being shall issue a writ of election to fill such vacancy for the remainder of the term.

SEC. 10. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under penalties as each house may provide.

SEC. 11. Each house shall have power to determine the rules of its proceedings, and punish its members or other persons for contempt or disorderly behavior in its presence, to enforce obedience to its process, to protect its members against violence, or offers of bribes or corrupt solicitation, and with the concurrence of two-thirds of either house to expel a member, but not a second time for the same cause; and shall have all the powers necessary for the legislature of a free State.

SEC. 12. A member of either house expelled for corruption shall not thereafter be eligible to either house; and punishment for contempt or disorderly behavior shall not bar an indictment for the same offense.

SEC. 13. Each house shall keep a journal of its proceedings, and cause the same to be published immediately after its adjournment, excepting such parts as in its judgment may require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one-tenth of the members present, be entered on the journals. Any member of either house shall have liberty to dissent from or protest against any act or resolution which he may think injurious to the public or an individual, and have the reasons for his dissent entered on the journals.

SEC. 14. Members of the General Assembly shall in all cases, except treason, felony, violation of their oath of office, and breach of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to and returning from the same, and for any speech or debate in either house they shall not be questioned in any other place.

SEC. 15. The doors of each house shall be open, except on such occasions as in the opinion of the house may require secrecy.

SEC. 16. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

SEC. 17. No senator or representative shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased during such term, except such office as may be filled by election by the people.

SEC. 18. No person hereafter convicted of embezzlement of public money, bribery, perjury, or other infamous crime, shall be eligible to the General Assembly, or capable of holding any office of trust or profit in this State.

SEC. 19. No law shall be passed except by bill, and no bill shall be so altered or amended on its passage through either house as to change its original purpose.

SEC. 20. No bill shall become a law until it shall have been referred to a committee of each house and returned therefrom.

SEC. 21. Every bill shall be read on three different days in each house, and no bill shall become a law unless on its final passage it be read at length and the vote be taken by yeas and nays, the names of the members voting for and against the same be entered on the journals, and a majority of each house be recorded thereon as voting in its favor, except as otherwise provided in this constitution.

SEC. 22. No amendment to bills by one house shall be concurred in by the other except by a vote of a majority thereof, taken by yeas and nays, and the names of those voting for and against recorded upon the journals; and reports of committees of conference shall in like manner be adopted in each house.

SEC. 23. No special or local law shall be enacted for the benefit of individuals or corporations in cases which are or can be provided for by a general law, or where the relief sought can be given by any court of this State. Nor shall the operation of any general law be suspended by the General Assembly for the benefit of any individual, corporation, or association.

SEC. 24. No local or special law shall be passed on a subject which cannot be provided for by a general law, unless notice of the intention to apply therefor shall have been published in the locality where the matter or things to be affected may be situated, which notice shall be at least twenty days prior to the introduction into the General Assembly of such bill; the evidence of such notice having been given shall be exhibited to the general assembly before such act shall be passed: *Provided*, That the provisions of this constitution as to special or local laws shall not apply to public or educational institutions of or in this State, nor to industrial, mining, immigration, or manufacturing corporations or interests, or corporations for constructing canals, or improving navigable rivers and harbors of this State.

SEC. 25. The General Assembly shall pass general laws, under which local and private interests shall be provided for and protected.

SEC. 26. The General Assembly shall have no power to authorize lotteries or gift-enterprises for any purpose, and it shall pass laws to prohibit the sale of lottery or gift-enterprise tickets, or tickets in any scheme in the nature of a lottery, in this State, and all acts or parts of acts heretofore passed by the General Assembly of this State, authorizing a lottery or lotteries, and all acts amendatory thereof or supplemental thereto, are hereby avoided.

SEC. 27. The presiding officer of each house shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the general assembly, after the titles have been publicly read immediately before signing, and the fact of signing shall be entered on the journal.

SEC. 28. The general assembly shall prescribe by law the number, duties, and compensation of the officers and employés of each house, and no payment shall be made from the State treasury, or be in any

way authorized, to any person, except to an acting officer or employé, elected or appointed in pursuance of law.

SEC. 29. No bill shall be passed giving any extra compensation to any public officer, servant, or employé, agent or contractor, after the services shall have been rendered, or contract made; nor shall any officer of the State bind the State to the payment of any sum of money but by authority of law.

SEC. 30. All stationery, printing, paper, and fuel used in the legislative and other departments of government shall be furnished, and the printing, binding, and distribution of laws, journals, department reports, and all other printing and binding, and repairing and furnishing the halls and rooms used for the meetings of the general assembly and its committees, shall be performed under contract, to be given to the lowest responsible bidder below a maximum price, and under such regulations as shall be prescribed by law; no member or officer of any department of the government shall be in any way interested in such contracts, and all such contracts shall be subject to the approval of the Governor, State auditor, and State treasurer.

SEC. 31. All bills for raising revenues shall originate in the house of representatives, but the senate may propose amendments as in other bills.

SEC. 32. The general appropriation bill shall embrace nothing but appropriations for the ordinary expenses of the executive, legislative, and judicial departments of the State, interest on the public debt, and for the public schools; all other appropriations shall be made by separate bills, each embracing but one subject.

SEC. 33. No money shall be paid out of the treasury except upon appropriations made by law, and on warrant drawn by the proper officer in pursuance thereof, and a regular statement and account of receipts and expenditures of all public moneys shall be published annually in such manner as may be by law directed.

SEC. 34. No appropriation shall be made to any charitable or educational institution not under the absolute control of the State, other than normal schools established by law for the professional training of teachers for the public schools of the State, except by a vote of two-thirds of all the members elected to each house.

SEC. 35. No act of the General Assembly shall authorize the investment of any trust-funds by executors, administrators, guardians, and other trustees, in the bonds or stock of any private corporation; and any such acts now existing are avoided, saving investments heretofore made.

SEC. 36. The power to change the venue in civil and criminal causes is vested in the courts, to be exercised in such manner as shall be provided by law.

SEC. 37. When the General Assembly shall be convened in special session, there shall be no legislation upon subjects other than those designated in the proclamation of the governor calling such session.

SEC. 38. No State office shall be continued or created for the inspection or measuring of any merchandise, manufacture, or commodity, but any county or municipality may appoint such officers when authorized by law.

Sec. 39. No act of the general assembly changing the seat of government of the State shall become a law until the same shall have been submitted to the qualified electors of the State at a general election, and approved by a majority of such electors voting upon the same, and such act shall specify the proposed new location.

Sec. 40. A member of the General Assembly who shall corruptly solicit, demand, or receive, or consent to receive, directly or indirectly, for himself or for another, from any company, corporation, or person, any money, office, appointment, employment, reward, thing of value or enjoyment, or of personal advantage, or promise thereof, for his vote or official influence, or for withholding the same, or with an understanding, expressed or implied, that his vote or official action shall be in any way influenced thereby, or who shall solicit or demand any such money or other advantage, matter, or thing aforesaid, for another, as the consideration of his vote or official influence, or for withholding the same, or shall give or withhold his vote or influence in consideration of the payment or promise of such money, advantage, matter, or thing to another, shall be guilty of bribery within the meaning of this constitution, and shall incur the disabilities provided thereby for such offence, and such additional punishment as is or shall be provided by law.

Sec. 41. Any person who shall, directly or indirectly, offer, give, or promise any money or thing of value, testimonial, privilege, or personal advantage to any executive or judicial officer, or member of the General Assembly, to influence him in the performance of any of his public or official duties, shall be guilty of bribery, and be punished in such manner as shall be provided by law.

Sec. 42. The offence of corrupt solicitation of members of the general assembly, or of public officers of this State, or of any municipal division thereof, and any occupation or practice of solicitation of such member or officers to influence their official action shall be defined by law, and shall be punished by fine and imprisonment.

Sec. 43. A member of the general assembly who has a personal or private interest in any measure or bill, proposed or pending before the General Assembly, shall disclose the fact to the house of which he is a member, and shall not vote thereon.

Sec. 44. In all elections by the General Assembly the members shall vote *viva voce*, and the votes shall be entered on the journals.

Sec. 45. It shall be the duty of the General Assembly to pass such laws as may be necessary and proper to decide differences by arbitrators, to be appointed by the parties who may choose that mode of adjustment.

Sec. 46. It shall be the duty of the General Assembly, at its first session after the ratification of this constitution, and within every subsequent period of ten years, to make provision by law for the revision, digesting, and promulgation of the public statutes of this State of a general nature, both civil and criminal.

Sec. 47. The General Assembly shall pass such penal laws as they may deem expedient to suppress the evil practice of duelling.

Sec. 48. It shall be the duty of the General Assembly to regulate by law the cases in which deductions shall be made from the salaries of public officers for neglect of duty in their official capacities, and the amount of such deductions.

SEC. 49. It shall be the duty of the General Assembly to require the several counties of this State to make adequate provision for the maintenance of the poor.

SEC. 50. The General Assembly shall not have power to authorize any municipal corporation to pass any laws inconsistent with the general laws of this State.

SEC. 51. In the event of annexation of any foreign territory to this State, the General Assembly shall enact laws extending to the inhabitants of the acquired territory all the rights and privileges which may be required by the terms of the acquisition, anything in this constitution to the contrary notwithstanding.

SEC. 52. The General Assembly shall not tax the property, real and personal, of the State, counties, or other municipal corporations, or cemeteries; nor lots in incorporated cities or towns, or within one mile of any city or town, to the extent of one acre, nor lots one mile or more distant from such cities or towns, to the extent of five acres, with the buildings thereon, when the same are used exclusively for religious worship, for schools, or for purposes purely charitable; nor such property, real or personal, to an extent not exceeding twenty-five thousand dollars in value, as may be used exclusively for agricultural or horticultural associations of a public character.

SEC. 53. The General Assembly shall by law prescribe such rules and regulations as may be necessary to ascertain the value of personal and real property exempted from sale under legal process by this constitution, and to secure the same to the claimant thereof as selected.

SEC. 54. The State shall not engage in works of internal improvement, nor lend money or its credit in aid of such; nor shall the State be interested in any private or corporate enterprise, or lend money or its credit to any individual, association, or corporation.

SEC. 55. The General Assembly shall have no power to authorize any county, city, town, or other subdivision of this State to lend its credit, or to grant public money or thing of value in aid of, or to any individual, association, or corporation whatsoever, or to become a stockholder in any such corporation, association, or company, by issuing bonds or otherwise.

SEC. 56. There can be no law of this State impairing the obligation of contracts by destroying or impairing the remedy for their enforcement; and the General Assembly shall have no power to revive any right or remedy which may have become barred by lapse of time or by any statute of this State.

ARTICLE V

EXECUTIVE DEPARTMENT

SECTION 1. The executive department shall consist of a Governor, Secretary of State, State Treasurer, State Auditor, Attorney-general, and Superintendent of Education, and a sheriff for each county.

SEC. 2. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled "The Governor of the State of Alabama."

SEC. 3. The Governor, Secretary of State, State Treasurer, State Auditor, and Attorney-General shall be elected by the qualified

electors of this State, at the same time and places appointed for the election of members of the General Assembly.

Sec. 4. The returns of every election for Governor, Secretary of State, State Auditor, State Treasurer, and Attorney-General, shall be sealed up and transmitted by the returning-officers to the seat of government directed to the Speaker of the House of Representatives, who shall, during the first week of the session to which said returns shall be made, open and publish them in the presence of both houses of the general assembly in joint convention. The person having the highest number of votes for either of said offices shall be declared duly elected; but if two or more shall have an equal and the highest number of votes for the same office, the General Assembly, by joint vote, without delay, shall choose one of said persons for said office. Contested elections for Governor, Secretary of State, State Auditor, State Treasurer, and Attorney-General shall be determined by both houses of the General Assembly in such manner as may be prescribed by law.

Sec. 5. The Governor, Secretary of State, State Treasurer, State Auditor, and Attorney-General shall hold their respective offices for the term of two years from the time of their installation in office and until their successors shall be elected and qualified.

Sec. 6. The Governor shall be at least 30 years of age when elected, and shall have been a citizen of the United States ten years, and a resident citizen of this State at least seven years next before the day of his election.

Sec. 7. The Governor, Secretary of State, State Treasurer, State Auditor, and Attorney-General, shall reside at the seat of government of this State during the time they continue in office, (except in case of epidemics;) and they shall receive compensation for their services, which shall be fixed by law, and which shall not be increased or diminished during the term for which they shall have been elected.

Sec. 8. The Governor shall take care that the laws be faithfully executed.

Sec. 9. The Governor may require information in writing, under oath, from the officers of the executive department on any subject relating to the duties of their respective offices; and he may at any time require information in writing, under oath, from all officers and managers of State institutions, upon any subject relating to the condition, management, and expenses of their respective offices and institutions; and any such officer or manager who makes a false report shall be guilty of perjury, and punished accordingly.

Sec. 10. The Governor may, by proclamation, on extraordinary occasions, convene the General Assembly at the seat of government, or at a different place, if, since their last adjournment, that shall have become dangerous from an enemy or from infectious or contagious diseases; and he shall state specifically in such proclamation each matter concerning which the action of that body is deemed necessary.

Sec. 11. The Governor shall, from time to time, give to the General Assembly information of the state of the government, and recommend to their consideration such measures as he may deem expedient, and at the commencement of each session of the General Assembly, and at the close of his term of office, give information by written

message of the condition of the State, and he shall account to the General Assembly, as may be prescribed by law, for all moneys received and paid out by him from any funds subject to his order, with the vouchers therefor, and he shall at the commencement of each regular session present to the General Assembly estimates of the amount of money required to be raised by taxation for all purposes.

SEC. 12. The Governor shall have power to remit fines and forfeitures, under such rules and regulations as may be prescribed by law, and after conviction to grant reprieves, commutation of sentence, and pardons, (except in cases of treason and impeachment;) but pardons in cases of murder, arson, burglary, rape, assault with intent to commit rape, perjury, forgery, bribery, and larceny shall not relieve from civil and political disability unless specifically expressed in the pardon. Upon conviction of treason, the governor may suspend the execution of the sentence, and report the same to the General Assembly at the next regular session, when the General Assembly shall either pardon, commute the sentence, direct its execution, or grant further reprieve. He shall communicate to the general assembly at every regular session each case of reprieve, commutation, or pardon granted, with his reasons therefor; stating the name and crime of the convict, the sentence, its date, and the date of the reprieve, commutation, or pardon.

SEC. 13. Every bill, which shall have passed both houses of the General Assembly, shall be presented to the Governor; if he approve, he shall sign it, but if not, he shall return it with his objections to that house in which it shall have originated, who shall enter the objections at large upon the journals, and the house to which such bill shall be returned shall proceed to reconsider it; if, after such reconsideration, a majority of the whole number elected to that house shall vote for the passage of such bill, it shall be sent, with the objections, to the other house, by which it shall likewise be reconsidered; if approved by a majority of the whole number elected to that house, it shall become a law; but in such cases, the vote of both houses shall be determined by yeas and nays, and the names of the members voting for or against the bill shall be entered upon the journals of each house respectively; if any bill shall not be returned by the governor within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the General Assembly by their adjournment prevent its return, in which case it shall not be a law. And every order, vote, or resolution, to which the concurrence of both houses may be necessary (except questions of adjournment, and of bringing on elections by the two houses, and of amending this constitution) shall be presented to the governor, and before the same shall take effect be approved by him, or being disapproved shall be repassed by both houses, according to the rules and limitations prescribed in the case of a bill.

SEC. 14. The Governor shall have power to disapprove of any item or items of any bill making appropriations of money, embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items of appropriations disapproved shall be

void, unless repassed according to the rules and limitations prescribed for the passage of other bills over the executive veto, and he shall, in writing, state specifically the item or items he disapproves.

SEC. 15. In case of the impeachment of the governor, his removal from office, death, refusal to qualify, resignation, absence from the State, or other disability, the President of the Senate shall exercise all the power and authority appertaining to the office of governor, until the time appointed for the election of governor shall arrive, or until the governor who is absent or impeached, shall return or be acquitted, or other disability be removed, and if during such vacancy in the office of governor, the President of the Senate shall be impeached, removed from office, refuse to qualify, die, resign, be absent from the State, or be under any other disability, the speaker of the house of representatives shall in like manner administer the government. If the Governor shall be absent from the State over twenty days, the secretary of state shall notify the President of the Senate, who shall enter upon the duties of Governor, and if the Governor and President of the Senate shall both be absent from the State over twenty days, the Secretary of State shall notify the Speaker of the House of Representatives, and in such case he shall enter upon and discharge the duties of Governor, until the return of the Governor or President of the Senate.

SEC. 16. The President of the Senate and Speaker of the House of Representatives shall, during the time they respectively administer the government, receive the same compensation which the Governor would have received if he had been employed in the duties of his office: *Provided*, That if the General Assembly shall be in session during such absence, they, or either of them, shall receive no compensation as members of the General Assembly while acting as Governor.

SEC. 17. No person shall, at one and the same time, hold the office of Governor of this State and any other office, civil or military, either under this State, the United States, or any other State or Government, except as otherwise provided in this Constitution.

SEC. 18. The governor shall be Commander-in-Chief of the militia and volunteer forces of the State, except when they shall be called into the service of the United States, and he may call out the same to execute the laws, suppress insurrection, and repel invasion; but he need not command in person, unless directed to do so by a resolution of the General Assembly, and when acting in the service of the United States he shall appoint his staff and the General Assembly shall fix his rank.

SEC. 19. No person shall be eligible to the office of Secretary of State, State Treasurer, State Auditor, or Attorney-General, unless he shall have been a citizen of the United States at least seven years, and shall have resided in this State at least five years next preceding his election, and shall be at least twenty-five years old when elected.

SEC. 20. There shall be a great seal of the State, which shall be used officially by the Governor; and the seal now in use shall continue to be used until another shall have been adopted by the General Assembly. The said seal shall be called the "Great seal of the State of Alabama."

Sec. 21. The Secretary of State shall be custodian of the seal of the State, and shall authenticate therewith all official acts of the Governor, his approval of laws and resolutions excepted. He shall keep a register of the official acts of the Governor, and when necessary shall attest them, and lay copies of same, together with copies of all papers relative thereto, before either house of the General Assembly, whenever required to do so, and shall perform such other duties as may be prescribed by law.

Sec. 22. All grants and commissions shall be issued in the name and by the authority of the State of Alabama, sealed with the great seal, signed by the Governor and countersigned by the Secretary of State.

Sec. 23. Should the office of Secretary of State, State Treasurer, State Auditor, Attorney-General, or Superintendent of Education become vacant, for any of the causes specified in section fifteen of this article, the governor shall fill the vacancy until the disability is removed or a successor elected and qualified.

Sec. 24. The State Treasurer, State Auditor, and Attorney-General shall perform such duties as may be prescribed by law. The State Treasurer and State Auditor shall every year, at a time the General Assembly may fix, make a full and complete report to the Governor, showing all receipts and disbursements of revenue, of every character, all claims audited and paid by the State, by items, and all taxes and revenue collected and paid into the treasury, and from what sources, and they shall make reports oftener on any matter pertaining to their office, if required by the Governor, or the General Assembly.

Sec. 25. The State Auditor, State Treasurer, and Secretary of State shall not, after the expiration of the terms of those now in office, receive to their use any fees, costs, perquisites of office, or compensation other than their salaries as prescribed by law; and all fees that may be payable by law, for any service performed by either of such officers, shall be paid in advance into the State treasury.

Sec. 26. A Sheriff shall be elected in each county by the qualified electors thereof, who shall hold his office for the term of four years, unless sooner removed, and shall be ineligible to such office as his own successor: *Provided*, That sheriffs elected on the first Monday in August, 1877, or at such other time as may be prescribed by law for the election in that year, shall hold their offices for the term of three years, and until their successors shall be elected and qualified. In the year 1880, at the general election for members to the General Assembly, sheriffs shall be elected for four years as herein provided. Vacancies in the office of Sheriff shall be filled by the Governor, as in other cases, and the person appointed shall continue in office until the next general election in the county for sheriff, as provided by law.

Article VI

JUDICIAL DEPARTMENT

Section 1. The judicial power of the State shall be vested in the Senate, sitting as a court of impeachment, a supreme court, circuit courts, chancery courts, courts of probate, such inferior courts of law

and equity, to consist of not more than five members, as the General Assembly may from time to time establish, and such persons as may be by law invested with powers of a judicial nature.

Sec. 2. Except in cases otherwise directed in the constitution, the Supreme Court shall have appellate jurisdiction only, which shall be co-extensive with the State, under such restrictions and regulations, not repugnant to this constitution, as may from time to time be prescribed by law: *Provided*, That said court shall have power to issue writs of injunction, *habeas corpus*, *quo warranto*, and such other remedial and original writs as may be necessary to give it a general superintendence and control of inferior jurisdiction.

Sec. 3. The Supreme Court shall be held at the seat of government, but if that shall have become dangerous from any cause, it may adjourn to a different place.

Sec. 4. The State shall be divided by the General Assembly into convenient circuits, not to exceed eight in number, unless increased by a vote of two-thirds of the members of each house of the General Assembly, and no circuit shall contain less than three nor more than twelve counties, and for each circuit there shall be chosen a judge, who shall for one year next preceding his election and during his continuance in office reside in the circuit for which he is elected.

Sec. 5. The Circuit Court shall have original jurisdiction in all matters, civil and criminal, within the State, not otherwise in this Constitution; but in civil cases only when the matter or sum in controversy exceeds fifty dollars.

Sec. 6. A circuit court shall be held in each county in the State at least twice in every year; and the judges of the several circuits may hold court for each other when they deem it expedient, and shall do so when directed by law: *Provided*, That the judges of the several circuit courts shall have power to issue writs of injunction returnable into courts of chancery.

Sec. 7. The General Assembly shall have power to establish a court or courts of chancery, with original and appellate jurisdiction. The State shall be divided by the General Assembly into convenient chancery divisions, not exceeding three in number, unless an increase shall be made by a vote of two-thirds of each house of the General Assembly, taken by yeas and nays and entered upon the journals; and the division shall be divided into districts, and for each division there shall be a chancellor, who shall, at the time of his election or appointment, and during his continuance in office, reside in the division for which he shall have been elected or appointed.

Sec. 8. A Chancery Court shall be held in each district, at a place to be fixed by law, at least once in each year; and the chancellors may hold courts for each other when they deem it necessary.

Sec. 9. The General Assembly shall have power to establish in each county within the State a court of probate, with general jurisdiction for the granting of letters testamentary and of administration, and for orphans' business.

Sec. 10. The judges of the Supreme Court, Circuit Courts, and Chancellors shall, at stated times, receive for their services a compensation, which shall not be diminished during their official terms, but they shall receive no fees or perquisites, nor hold any office

(except judicial offices) of profit or trust under this State, or the United States, or any other power, during the term for which they have been elected.

SEC. 11. The Supreme Court shall consist of one chief justice and such number of associate justices as may be prescribed by law.

SEC. 12. The chief-justice and associate justices of the Supreme Court, judges of the Circuit Courts, Probate Courts, and Chancellors shall be elected by the qualified electors of the State, circuits, counties, and chancery divisions for which such courts may be established, at such time as may be prescribed by law.

SEC. 13. The judges of such inferior courts of law and equity as may be by law established, shall be elected or appointed, in such mode as the general assembly may prescribe.

SEC. 14. The judges of the Supreme Court, Circuit Courts, and Chancellors, and the judges of city courts, shall have been citizens of the United States and of this State for five years next preceding their election or appointment, and shall be not less than twenty-five years of age, and learned in the law.

SEC. 15. The chief-justice and associate justices of the Supreme Court, Circuit Judges, Chancellors, and probate judges shall hold office for the term of six years, and until their successors are elected or appointed and qualified; and the right of such judges and chancellors to hold their offices for the full term, hereby prescribed, shall not be affected by any change hereafter made by law in any circuit, division, or county in the mode or time of election.

SEC. 16. The judges of the Supreme Court shall, by virtue of their offices, be conservators of the peace throughout the State; the judges of the Circuit Courts, within their respective circuits, and the judges of the inferior courts, within their respective jurisdictions, shall, in like manner, be conservators of the peace.

SEC. 17. Vacancies in the office of any of the judges or chancellors of this State shall be filled by appointment by the Governor, and such appointee shall hold his office for the unexpired term, and until his successor is elected or appointed and qualified.

SEC. 18. If in any case, civil or criminal, pending in any circuit, chancery, or city court in this State, the presiding judge or chancellor shall, for any legal cause, be incompetent to try, hear, or render judgment in such cause, the parties or their attorneys of record, if it be a civil case, or the solicitor or other prosecuting officer, and the defendant or defendants, if it be a criminal case, may agree upon some disinterested person practicing in the court, and learned in the law, to act as special judge or chancellor, to sit as a court, and to hear, decide, and render judgment in the same manner and to the same effect as a judge of the circuit or city court or chancellor sitting as a court might do in such case. If the case be a civil one, and the parties or their attorneys of record do not agree, or if the case be a criminal one and the prosecuting officer and the defendant or defendants do not agree upon a special judge or chancellor, or if either party in a civil cause is not represented in court, the clerk of the circuit or city court, or register in chancery, of the court in which said cause is pending, shall appoint the special judge or chancellor, who shall preside, try, and render judgments as in this section provided.

SEC. 19. The General Assembly shall have power to provide for the holding of circuit and chancery courts in this State, when the judges or chancellors thereof fail to attend regular terms.

SEC. 20. No judge of any court of record, in this State, shall practice law in any of the courts of this State or of the United States.

SEC. 21. Registers in chancery shall be appointed by the chancellors of the divisions, and shall hold office during the term of the chancellor making such appointment; and such registers shall receive as compensation for their services only such fees and commissions as may be specifically prescribed by law.

SEC. 22. A clerk of the Supreme Court shall be appointed by the judges thereof, and shall hold office during the term of the judges making the appointment, and clerks of such inferior courts as may be established by law shall be appointed by the judges thereof, and shall hold office during the term of the judge making such appointment.

SEC. 23. Clerks of the Circuit Court shall be elected by the qualified electors in each county, for the term of six years. Vacancies in such office shall be filled by the governor for the unexpired term.

SEC. 24. The clerk of the Supreme Court and registers in chancery may be removed from office by the judges of the supreme court and chancellors respectively, for cause, to be entered at length upon the records of the court.

SEC. 25. A solicitor for each judicial circuit shall be elected by joint ballot of the general assembly, who shall be learned in the law, and who shall, at the time of his election, and during his continuance in office, reside in the circuit for which he is chosen, and whose term of office shall be for six years: *Provided*, That the general assembly, at its first session thereof after the ratification of this constitution, shall, by joint ballot, elect a solicitor for each judicial circuit of the State, whose term of office shall begin on Tuesday after the first Monday in November, 1876, and continue for four years: *And provided*, That the general assembly may, when necessary, provide for the election or appointment of county solicitors.

SEC. 26. There shall be elected by the qualified electors of each precinct of the counties not exceeding two justices of the peace and one constable. Such justices shall have jurisdiction in all civil cases wherein the amount in controversy does not exceed $100, except in cases of libel, slander, assault and battery, and ejectment. In all cases tried before such justices, the right of appeal, without prepayment of costs, shall be secured by law: *Provided*, That the governor may appoint one notary public for each election-precinct in counties, and one for each ward in cities of over 5,000 inhabitants, who, in addition to the powers of notary, shall have and exercise the same jurisdiction as justices of the peace within the precincts and wards for which they are respectively appointed: *Provided*, That notaries public without such jurisdiction may be appointed. The term of office of such justice and notaries public shall be prescribed by law.

SEC. 27. An Attorney-General shall be elected by the qualified electors of the State at the same time and places of election of members of the general assembly, and whose term of office shall be for two years, and until his successor is elected and qualified. After his election he shall reside at the seat of government and shall be the

law-officer of the State, and shall perform such duties as may be required of him by law.

SEC. 28. The style of all processes shall be "The State of Alabama," and all prosecutions shall be carried on in the name and by the authority of the same, and shall conclude, "Against the peace and dignity of the State."

ARTICLE VII

IMPEACHMENT

SECTION 1. The Governor, Secretary of State, Auditor, Treasurer, Attorney-General, Superintendent of Education, and judges of the Supreme Court may be removed from office for wilful neglect of duty, corruption in office, habitual drunkenness, incompetency, or any offence involving moral turpitude while in office, or committed under color thereof, or connected therewith, by the Senate, sitting as a court for that purpose, under oath or affirmation, on articles or charges preferred by the house of representatives.

SEC. 2. The chancellors, judges of the circuit courts, judges of the probate courts, solicitors of the circuits and judges of inferior courts from which an appeal may be taken directly to the Supreme Court, may be removed from office for any of the causes specified in the preceding section, by the supreme court, under such regulations as may be prescribed by law.

SEC. 3. The sheriffs, clerks of the circuit, city, or criminal courts, tax-collectors, tax-assessors, county treasurers, coroners, justices of the peace, notaries public, constables, and all other county officers, mayors and intendents of incorporated cities and towns in this State, may be removed from office for any of the causes specified in section one of this article, by the circuit, city, or criminal court of the county in which such officers hold their office, under such regulations as may be prescribed by law: *Provided*, That the right of trial by jury and appeal in such cases be secured.

SEC. 4. The penalties in cases arising under the three preceding sections shall not extend beyond removal from office and disqualification from holding office under the authority of this State, for the term for which he was elected or appointed; but the accused shall be liable to indictment, trial, and punishment as prescribed by law.

ARTICLE VIII

SUFFRAGE AND ELECTIONS

SECTION 1. Every male citizen of the United States, and every male person of foreign birth who may have legally declared his intention to become a citizen of the United States before he offers to vote, who is 21 years old or upwards, possessing the following qualifications, shall be an elector, and shall be entitled to vote at any election by the people, except as hereinafter provided:

1st. He shall have resided in the State at least one year immediately preceding the election at which he offers to vote.

2d. He shall have resided in the county for three months, and in the precinct, district, or ward for thirty days immediately preceding the election at which he offers to vote: *Provided*, That the General Assembly may prescribe a longer or shorter residence in any precinct in any county, or in any ward in any incorporated city or town having a population of more than 5,000 inhabitants, but in no case to exceed three months: *And provided*, That no soldier, sailor, or marine in the military or naval service of the United States shall acquire a residence by being stationed in this State.

SEC. 2. All elections by the people shall be by ballot, and all elections by persons in a representative capacity shall be *viva voce*.

SEC. 3. The following classes shall not be permitted to register, vote, or hold office:

1st. Those who shall have been convicted of treason, embezzlement of public funds, malfeasance in office, larceny, bribery, or other crime punishable by imprisonment in the penitentiary.

2d. Those who are idiots or insane.

SEC. 4. Electors shall in all cases except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, or while going to or returning therefrom.

SEC. 5. The General Assembly shall pass laws, not inconsistent with this constitution, to regulate and govern elections in this State; and all such laws shall be uniform throughout the State. The General Assembly may, when necessary, provide by law for the registration of electors throughout the State, or in any incorporated city or town thereof; and when it is so provided, no person shall vote at any election unless he shall have registered as required by law.

SEC. 6. It shall be the duty of the General Assembly to pass adequate laws giving protection against the evils arising from the use of intoxicating liquors at all elections.

SEC. 7. Returns of elections for all civil officers who are to be commissioned by the Governor, except Secretary of State, State Auditor, State Treasurer, and Attorney-General, and for members of the General Assembly, shall be made to the Secretary of State.

ARTICLE IX

REPRESENTATION

SECTION 1. The whole number of Senators shall be not less than one-fourth or more than one-third of the whole number of representatives.

SEC. 2. The House of Representatives shall consist of not more than one hundred members, who shall be apportioned by the General Assembly among the several counties of the State according to the number of inhabitants in them, respectively, as ascertained by the decennial census of the United States for the year 1880; which apportionment, when made, shall not be subject to alteration until the first session of the general assembly after the next decennial census of the United States shall have been taken.

SEC. 3. It shall be the duty of the general assembly, at its first session after the taking of the decennial census of the United States in 1880, and after each subsequent decennial census, to fix by law the number of representatives, and apportion them among the several counties

of the State: *Provided*, That each county shall be entitled to at least one representative.

SEC. 4. It shall be the duty of the general assembly, at its first session after the taking of the decennial census of the United States in 1880, and after each subsequent decennial census, to fix by law the number of senators, and to divide the State into as many senatorial districts as there are senators, which districts shall be as nearly equal to each other in the number of inhabitants as may be, and each shall be entitled to one senator and no more; and which districts, when formed, shall not be changed until the next apportioning session of the general assembly after the next decennial census of the United States shall have been taken. No county shall be divided between two districts, and no district shall be made of two or more counties not contiguous to each other.

SEC. 5. Should the decennial census of the United States from any cause not be taken, or if when taken the same as to this State is not full or satisfactory, the general assembly shall have power, at its first session after the time shall have elapsed for the taking of said census, to provide for an enumeration of all the inhabitants of this State, and once in each ten years thereafter, upon which it shall be the duty of the general assembly to make the apportionment of representatives and senators as provided for in this article.

SEC. 6. Until the general assembly shall make an apportionment of representatives among the several counties, after the first decennial census of the United States as herein provided, the counties of Autauga, Baldwin, Bibb, Blount, Calhoun, Chilton, Cherokee, Choctaw, Clarke, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Dale, De Kalb, Elmore, Etowah, Escambia, Fayette, Franklin, Geneva, Henry, Lauderdale, Marion, Morgan, Monroe, Marshall, Randolph, Sanford, Shelby, Saint Clair, Walker, Washington, and Winston shall each have one representative: the counties of Barbour, Bullock, Butler, Chambers, Greene, Hale, Jackson, Jefferson, Limestone, Lawrence, Lowndes, Lee, Macon, Marengo, Perry, Pickens, Pike, Russell, Sumter, Talladega, Tallapoosa, Tuscaloosa, and Wilcox shall have each two representatives; the county of Madison shall have three representatives; the counties of Dallas and Montgomery shall have each four representatives, and the county of Mobile shall have five representatives.

SEC. 7. Until the general assembly shall divide the State into senatorial districts as herein provided, the senatorial districts shall be as follows:

First district, Lauderdale and Limestone; second district, Colbert and Lawrence; third district, Morgan, Winston, and Blount; fourth district, Madison; fifth district, Marshall, Jackson, and De Kalb; sixth district, Cherokee, Etowah, and Saint Clair; seventh district, Calhoun and Cleburne; eighth district, Talladega and Clay; ninth district, Randolph and Chambers; tenth district, Macon and Tallapoosa; eleventh district, Bibb and Tuscaloosa; twelfth district, Franklin, Marion, Fayette, and Sanford; thirteenth district, Walker, Jefferson, and Shelby; fourteenth district, Greene and Pickens; fifteenth district, Coosa, Elmore, and Chilton; sixteenth district, Lowndes and Autauga; seventeenth district, Butler and Conecuh; eighteenth district, Perry; nineteenth district, Choctaw, Clarke, and Washington; twentieth district, Marengo; twenty-first district,

Monroe, Escambia, and Baldwin; twenty-second district, Wilcox; twenty-third district, Henry, Coffee, Dale, and Geneva; twenty-fourth district, Barbour; twenty-fifth district, Pike, Crenshaw, and Covington; twenty-sixth district, Bullock; twenty-seventh district, Lee; twenty-eighth district, Montgomery; twenty-ninth district, Russell; thirtieth district, Dallas; thirty-first district, Sumter; thirty-second district, Hale; thirty-third district, Mobile.

Article X

TAXATION

Section 1. All taxes levied on property in this State shall be assessed in exact proportion to the value of such property: *Provided, however*, The General Assembly may levy a poll-tax, not to exceed one dollar and fifty cents on each poll, which shall be applied exclusively in aid of the public-school fund in the county so paying the same.

Sec. 2. No power to levy taxes shall be delegated to individuals or private corporations.

Sec. 3. After the ratification of this constitution no new debt shall be created against or incurred by this State or its authority, except to repel invasion or suppress insurrection, and then only by a concurrence of two-thirds of the members of each house of the General Assembly, and the vote shall be taken by yeas and nays and entered on the journals; and any act creating or incurring any new debt against this State, except as herein provided for, shall be absolutely void: *Provided*, The Governor may be authorized to negotiate temporary loans, never to exceed $100,000, to meet deficiencies in the treasury, and until the same is paid no new loan shall be negotiated: *Provided further*, That this section shall not be so construed as to prevent the issuance of bonds in adjustment of existing State indebtedness.

Sec. 4. The general assembly shall not have the power to levy, in any one year, a greater rate of taxation than three-fourths of one per centum on the value of the taxable property within this State.

Sec. 5. No county in this State shall be authorized to levy a larger rate of taxation, in any one year, on the value of the taxable property therein, than one-half of one per centum: *Provided*, That to pay debts existing at the ratification of this constitution an additional rate of one-fourth of one per cent. may be levied and collected, which shall be exclusively appropriated to the payment of such debts, or the interest thereon: *Provided further*, That to pay any debt or liability now existing against any county, incurred for the erection of the necessary public buildings, or other ordinary county purposes, or that may hereafter be created for the erection of necessary public buildings or bridges, any county may levy and collect such special taxes as may have been, or may hereafter be, authorized by law; which taxes so levied and collected shall be applied exclusively to the purposes for which the same shall have been levied and collected.

Sec. 6. The property of private corporations, associations, and individuals of this State shall forever be taxed at the same rate: *Provided*, This section shall not apply to institutions or enterprises devoted exclusively to religious, educational, or charitable purposes.

SEC. 7. No city, town, or other municipal corporation other than provided for in this article, shall levy or collect a larger rate of taxation, in any one year on the property thereof, than one-half of one per centum of the value of such property, as assessed for State taxation during the preceding year: *Provided*, That for the payment of debts existing at the time of the ratification of this constitution, and the interest thereon, an additional rate of one per centum may be collected, to be applied exclusively to such indebtedness:

And provided, This section shall not apply to the city of Mobile, which city may, until the 1st day of January, 1879, levy a tax not to exceed the rate of one per centum, and from and after that time a tax not to exceed the rate of three-fourths of one per centum to pay the expenses of the city government, and may also, until the 1st day of January, 1879, levy a tax not to exceed the rate of one per centum, and from and after that time a tax not to exceed three-fourths of one per centum to pay the existing indebtedness of said city and the interest thereon.

SEC. 8. At the first session of the General Assembly after the ratification of this constitution, the salaries of the following officers shall be reduced at least twenty-five per centum, viz: Governor, Secretary of State, State Auditor, State Treasurer, Attorney-General, Superintendent of Education, Judges of the Supreme and Circuit Courts, and Chancellors; and after said reduction the General Assembly shall not have the power to increase the same, except by a vote of a majority of all the members elected to each house, taken by yeas and nays and entered on the journals: *Provided*, This section shall not apply to any of said officers now in office.

SEC. 9. The General Assembly shall not have the power to require the counties or other municipal corporations to pay any charges which are now payable out of the State treasury.

ARTICLE XI

MILITIA

SECTION 1. All able-bodied male inhabitants of this State, between the ages of eighteen and forty-five years, who are citizens of the United States, or have declared their intention to become such citizens, shall be liable to military duty in the militia of the State.

SEC. 2. The General Assembly in providing for the organization, equipment, and discipline of the militia, shall conform as nearly as practicable to the regulations for the government of the armies of the United States.

SEC. 3. Each company and regiment shall elect its own company and regimental officers; but if any company or regiment shall neglect to elect such officers within the time prescribed by law, they may be appointed by the governor.

SEC. 4. Volunteer organizations of infantry, cavalry, and artillery may be formed in such manner and under such restrictions and with such privileges as may be provided by law.

SEC. 5. The militia and volunteer forces shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at muster, parades, and elections, and in going to and returning from the same.

SEC. 6. The Governor shall, except as otherwise provided herein, be commander-in-chief of the militia and volunteer forces of the State, except when in the service of the United States, and shall, with the advice and consent of the senate, appoint all general officers, whose term of office shall be for four years. The governor, the generals, and regimental and battalion commanders shall appoint their own staffs, as may be provided by law.

SEC. 7. The General Assembly shall provide for the safe-keeping of the arms, ammunition, and accoutrements, military records, banners, and relics of the State.

SEC. 8. The officers and men of the militia and volunteer forces shall not be entitled to or receive any pay, rations, or emoluments when not in active service.

ARTICLE XII

EDUCATION

SECTION 1. The General Assembly shall establish, organize, and maintain a system of public schools throughout the State, for the equal benefit of the children thereof between the ages of seven and twenty-one years; but separate schools shall be provided for the children of citizens of African descent.

SEC. 2. The principal of all funds arising from the sale or other disposition of lands or other property which has been or may hereafter be granted or entrusted to this State, or given by the United States for educational purposes, shall be preserved inviolate and undiminished; and the income arising therefrom shall be faithfully applied to the specific objects of the original grants or appropriations.

SEC. 3. All lands or other property given by individuals or appropriated by the State for educational purposes, and all estates of deceased persons who die without leaving a will or heir, shall be faithfully applied to the maintenance of the public schools.

SEC. 4. The General Assembly shall also provide for the levying and collection of an annual poll-tax, not to exceed one dollar and fifty cents on each poll, which shall be applied to the support of the public schools in the counties in which it is levied and collected.

SEC. 5. The income arising from the sixteenth-section trust-fund, the surplus-revenue fund, until it is called for by the United States Government, and the funds enumerated in sections three and four of this article, with such other moneys, to be not less than one hundred thousand dollars per annum, as the General Assembly shall provide by taxation or otherwise, shall be applied to the support and maintenance of the public schools, and it shall be the duty of the General Assembly to increase, from time to time, the public-school fund, as the condition of the treasury and the resources of the State will admit.

SEC. 6. Not more than four per cent. of all moneys raised, or which may hereafter be appropriated for the support of public schools, shall be used or expended otherwise than for the payment of teachers employed in such schools: *Provided*, That the General Assembly may, by a vote of two-thirds of each house, suspend the operation of this section.

SEC. 7. The supervision of the public schools shall be vested in a Superintendent of Education, whose powers, duties, term of office, and

compensation shall be fixed by law. The Superintendent of Education shall be elected by the qualified voters of the State, in such manner and at such time as shall be provided by law.

SEC. 8. No money raised for the support of the public schools of the State shall be appropriated to or used for the support of any sectarian or denominational school.

SEC. 9. The State University and the Agricultural and Mechanical College shall each be under the management and control of a Board of Trustees. The Board for the University shall consist of two members from the congressional district in which the University is located, and one from each of the other congressional districts in the State. The Board for the Agricultural and Mechanical College shall consist of two members from the congressional district in which the college is located, and one from each of the other congressional districts in the State. Said trustees shall be appointed by the Governor, by and with the advice and consent of the Senate, and shall hold office for a term of six years, and until their successors shall be appointed and qualified. After the first appointment each board shall be divided into three classes, as nearly equal as may be. The seats of the first class shall be vacated at the expiration of two years, and those of the second class in four years, and those of the third class at the end of six years from the date of appointment, so that one-third may be chosen biennially. No trustee shall receive any pay or emolument other than his actual expenses incurred in the discharge of his duties as such. The Governor shall be *ex officio* President, and the Superintendent of Education *ex officio* a member of each of said boards of trustees.

SEC. 10. The General Assembly shall have no power to change the location of the State University or the Agricultural and Mechanical College as now established by law, except upon a vote of two-thirds of the members of the General Assembly, taken by yeas and nays, and entered upon the journals.

SEC. 11. The provisions of this article, and of any act of the General Assembly, passed in pursuance thereof, to establish, organize, and maintain a system of public schools throughout the State, shall apply to Mobile County only so far as to authorize and require the authorities designated by law to draw the portion of the funds to which said county will be entitled for school purposes, and to make reports to the Superintendent of Education as may be prescribed by law. And all special incomes and powers of taxation as now authorized by law for the benefit of public schools in said county, shall remain undisturbed until otherwise provided by the General Assembly: *Provided*, That separate schools for each race shall always be maintained by said school authorities.

ARTICLE XIII

CORPORATIONS—PRIVATE CORPORATIONS

SECTION 1. Corporations may be formed under general laws, but shall not be created by special act, except for municipal, manufacturing, mining, immigration, industrial, and educational purposes, or for constructing canals, or improving navigable rivers and harbors of this State, and in cases where, in the judgment of the general

assembly, the objects of the corporation cannot be attained under general laws. All general laws and special acts passed pursuant to this section may be altered, amended, or repealed.

SEC. 2. All existing charters, or grants of special or exclusive privileges, under which a *bona-fide* organization shall not have taken place and business been commenced in good faith, at the time of the ratification of this constitution, shall thereafter have no validity.

SEC. 3. The General Assembly shall not remit the forfeiture of the charter of any corporation now existing, or alter or amend the same, or pass any general or special law for the benefit of such corporation, other than in execution of a trust created by law or by contract, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this constitution.

SEC. 4. No foreign corporation shall do any business in this State without having at least one known place of business, and an authorized agent or agents therein; and such corporation may be sued, in any county where it does business, by service of process upon an agent anywhere in this State.

SEC. 5. No corporation shall engage in any business other than that expressly authorized in its charter.

SEC. 6. No corporation shall issue stock or bonds, except for money, labor done, or money or property actually received: and all fictitious increase of stock or indebtedness shall be void. The stock and bonded indebtedness of corporations shall not be increased, except in pursuance of general laws, nor without the consent of the persons holding the larger amount in value of stock first obtained at a meeting to be held after thirty days' notice given in pursuance of law.

SEC. 7. Municipal and other corporations and individuals invested with the privilege of taking private property for public use shall make just compensation for the property taken, injured, or destroyed by the construction or enlargement of its works, highways, or improvements, which compensation shall be paid before such taking, injury, or destruction. The General Assembly is hereby prohibited from depriving any person from an appeal from any preliminary assessment of damages against any such corporations or individuals, made by viewers or otherwise; and the amount of such damages in all cases of appeal shall, on the demand of either party, be determined by a jury according to law.

SEC. 8. Dues from private corporations shall be secured by such means as may be prescribed by law, but in no case shall any stockholder be individually liable otherwise than for the unpaid stock owned by him or her.

SEC. 9. No corporation shall issue preferred stock without the consent of the owners of two-thirds of the stock of said corporation.

SEC. 10. The General Assembly shall have the power to alter, revoke, or amend any charter of incorporation now existing, and revokable at the ratification of this constitution, or any that may hereafter be created, whenever in their opinion it may be injurious to the citizens of the State, in such manner, however, that no injustice shall be done to the corporators. No law hereafter enacted shall create, renew, or extend the charter of more than one corporation.

SEC. 11. Any association or corporation organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph within this State, and connect the same with other

lines; and the General Assembly shall, by general law of uniform operation, provide reasonable regulations to give full effect to this section. No telegraph company shall consolidate with, or hold a controlling interest in the stock or bonds of, any other telegraph company owning a competing line, or acquire, by purchase or otherwise, any other competing line of telegraph.

SEC. 12. All corporations shall have the right to sue, and shall be subject to be sued, in all courts, in like cases as natural persons.

SEC. 13. The term "corporation," as used in this article, shall be construed to include all joint-stock companies, or any associations having any of the powers or privileges of corporations not possessed by individuals or partnerships.

BANKS AND BANKING

SEC. 14. The General Assembly shall not have the power to establish or incorporate any bank, or banking company, or moneyed institution, for the purpose of issuing bills of credit, or bills payable to order or bearer, except under the conditions prescribed in this constitution.

SEC. 15. No bank shall be established otherwise than under a general banking law, as provided in the thirteenth section of this article, nor otherwise than upon a special basis.

SEC. 16. All bills or notes issued as money shall be, at all times, redeemable in gold or silver; and no law shall be passed sanctioning, directly or indirectly, the suspension, by any bank or banking company, of specie payment.

SEC. 17. Holders of bank-notes and depositors who have not stipulated for interest shall, for such notes and deposits, be entitled, in case of insolvency, to the preference of payment over all other creditors.

SEC. 18. Every bank or banking company shall be required to cease all banking operations within twenty years from the time of its organization, unless the General Assembly shall extend the time, and promptly thereafter close its business, but shall have corporate capacity to sue, and shall be liable to suit, until its affairs and liabilities are fully closed.

SEC. 19. No bank shall receive, directly or indirectly, a greater rate of interest than shall be allowed by law to individuals for lending money.

SEC. 20. The State shall not be a stockholder in any bank, nor shall the credit of the State ever be given or loaned to any banking company, association, or corporation.

RAILROADS AND CANALS

SEC. 21. All railroads and canals shall be public highways, and all railroad and canal companies shall be common carriers. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any points in this State, and to connect, at the State line, with railroads of other States. Every railroad company shall have the right with its road to intersect, connect with, or cross any other railroad, and shall receive and transport each the other's freight, passengers, and cars, loaded or empty, without delay or discrimination.

SEC. 22. The General Assembly shall pass laws to correct abuses and prevent unjust discrimination and extortion in the rates of freights and passenger tariffs on railroads, canals, and rivers in this State.

SEC. 23. No railroad or other transportation company shall grant free passes, or sell tickets or passes at a discount, other than as sold to the public generally, to any member of the General Assembly, or to any person holding office under this State or the United States.

SEC. 24. No street passenger railway shall be constructed within the limits of any city or town without the consent of its local authorities.

SEC. 25. No railroad, canal, or other transportation company, in existence at the time of the ratification of this constitution, shall have the benefit of any future legislation by general or special laws, other than in execution of a trust created by law or by contract, except on the condition of complete acceptance of all the provisions of this article.

ARTICLE XIV

EXEMPTED PROPERTY

SECTION 1. The personal property of any resident of this State to the value of $1,000, to be selected by such resident, shall be exempted from sale on execution, or other process of any court, issued for the collection of any debt contracted since the 13th day of July, 1868, or after the ratification of this constitution.

SEC. 2. Every homestead, not exceeding eighty acres, and the dwelling and appurtenances thereon, to be selected by the owner thereof, and not in any city, town, or village, or in lieu thereof, at the option of the owner, any lot in the city, town, or village, with the dwelling and appurtenances thereon, owned and occupied by any resident of this State, and not exceeding the value of two thousand dollars, shall be exempt from sale on execution or any other process from a court, for any debt contracted after the adoption of this constitution. Such exemption, however, shall not extend to any mortgage lawfully obtained, but such mortgage or other alienation of such homestead, by the owner thereof, if a married man, shall not be valid without the voluntary signature and assent of the wife of the same.

SEC. 3. The homestead of a family, after the death of the owner thereof, shall be exempt from the payment of any debts contracted after the adoption of this constitution, in all cases, during the minority of the children.

SEC. 4. The provisions of sections one and two of this article shall not be so construed as to prevent a laborer's lien for work done and performed for the person claiming such exemption, or a mechanic's lien for work done on the premises.

SEC. 5. If the owner of a homestead die, leaving a widow, but no children, the same shall be exempt, and the rents and profits thereof shall inure to her benefit.

SEC. 6. The real and personal property of any female in this State, acquired before marriage, and all property, real and personal, to which she may afterward be entitled by gift, grant, inheritance, or devise, shall be and remain the separate estate and property of such female, and shall not be liable for any debts, obligations, and engagements

of her husband, and may be devised or bequeathed by her the same as if she were a *feme sole*.

SEC. 7. The right of exemptions hereinbefore secured may be waived by an instrument in writing, and when such waiver relates to realty, the instrument must be signed by both the husband and wife, and attested by one witness.

ARTICLE XV

OATH OF OFFICE

SECTION 1. All members of the general assembly, and all officers, executive and judicial, before they enter upon the execution of the duties of their respective offices, shall take the following oath or affirmation, to wit:

"I, ——— ———, solemnly swear [or affirm, as the case may be] that I will support the Constitution of the United States, and the constitution of the State of Alabama, so long as I continue a citizen thereof; and that I will faithfully and honestly discharge the duties of the office upon which I am about to enter, to the best of my ability: So help me God."

Which oath may be administered by the presiding officer of either house of the general assembly, or any officer authorized by law to administer an oath.

ARTICLE XVI

MISCELLANEOUS PROVISIONS

SECTION 1. No person holding an office of profit under the United States, except postmasters whose annual salary does not exceed two hundred dollars, shall, during his continuance in such office, hold any office of profit under this State; nor shall any person hold two offices of profit at one and the same time under this State, except justices of the peace, constables, notaries public, and commissioners of deeds.

SEC. 2. It is made the duty of the general assembly to enact all laws necessary to give effect to the provisions of this constitution.

ARTICLE XVII

MODE OF AMENDING THE CONSTITUTION

SECTION 1. The general assembly may, whenever two-thirds of each house shall deem it necessary, propose amendments to this constitution, which, having been read three times on three successive days, shall be duly published, in such manner as the general assembly may direct, at least three months before the next general election for representatives, for the consideration of the people; and it shall be the duty of the several returning-officers, at the next general election which shall be held for representatives, to open a poll for the vote of the qualified electors on the proposed amendments, and to make a return of said vote to the secretary of state; and if it shall thereupon appear that a majority of all the qualified electors of the State, who

voted for representatives, voted in favor of the proposed amendments, said amendments shall be valid to all intents and purposes as parts of this constitution, and the results of such election shall be made known by proclamation of the governor.

SEC. 2. No convention shall hereafter be held for the purpose of altering or amending the constitution of this State, unless the question of convention or no convention shall be first submitted to a vote of all the electors twenty-one years and upwards, and approved by a majority of electors voting at said election.

L. P. WALKER, *President.*

B. H. SCREWS, *Secretary.*

CONSTITUTION OF ALABAMA—1901 *

As Adopted by the Constitutional Convention, September 3, 1901, and in Effect November 28, 1901

PREAMBLE.

We, the people of the State of Alabama, in order to establish justice, insure domestic tranquility and secure the blessings of liberty to ourselves and our posterity, invoking the favor and guidance of Almighty God, do ordain and establish the following Constitution and form of government for the State of Alabama:

ARTICLE I

DECLARATION OF RIGHTS

That the great, general and essential principles of liberty and free government may be recognized and established, we declare:

1. That all men are equally free and independent; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty and the pursuit of happiness.

2. That all political power is inherent in the people, and all free governments are founded on their authority and instituted for their benefit; and that, therefore, they have at all times an inalienable and indefeasible right to change their form of government in such manner as they may deem expedient.

3. That no religion shall be established by law; that no preference shall be given by law to any religious sect, society, denomination or mode of worship; that no one shall be compelled by law to attend any place of worship; nor to pay any tithes, taxes or other rates for building or repairing any place of worship, or for maintaining any minister or ministry; that no religious test shall be required as a qualification to any office or public trust under this State; and that the civil rights, privileges and capacities of any citizen shall not be in any manner affected by his religious principles.

4. That no law shall ever be passed to curtail or restrain the liberty of speech or of the press; and any person may speak, write and

* Verified by "Constitution, State of Alabama, as adopted by the Constitutional Convention September 3, 1901; in effect November 28, 1901."

publish his sentiments on all subjects, being responsible for the abuse of that liberty.

5. That the people shall be secure in their persons, houses, papers and possessions from unreasonable seizures or searches, and that no warrants shall issue to search any place or to seize any person or thing without probable cause, supported by oath or affirmation.

6. That in all criminal prosecutions the accused has a right to be heard by himself and counsel, or either; to demand the nature and cause of the accusation and to have a copy thereof; to be confronted by the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to testify in all cases in his own behalf, if he elects so to do; and in all prosecutions by indictment, a speedy public trial, by an impartial jury of the county or district in which the offense was committed; and he shall not be compelled to give evidence against himself, nor be deprived of life, liberty or property, except by due process of law; but the Legislature may, by a general law, provide for a change of venue at the instance of the defendant in all prosecutions by indictment, and such change of venue on application of the defendant, may be heard and determined without the personal presence of the defendant so applying therefor; provided, that at the time of the application for the change of venue, the defendant is imprisoned in jail or some legal place of confinement.

7. That no person shall be accused, or arrested, or detained, except in cases ascertained by law, and according to the form which the same has prescribed; and no person shall be punished but by virtue of a law established and promulgated prior to the offense and legally applied.

8. That no person shall for any indictable offense be proceeded against criminally by information, except in cases arising in the militia and volunteer forces when in actual service, or when assembled under arms as a military organization, or, by leave of the court, for misfeasance, misdemeanor, extortion and oppression in office, otherwise than is provided in this Constitution; provided, that in cases of misdemeanor, the Legislature may by law dispense with a Grand Jury and authorize such prosecutions and proceedings before Justices of the Peace or such other inferior courts as may be by law established.

9. That no person shall, for the same offense, be twice put in jeopardy of life or limb; but courts may, for reasons fixed by law, discharge juries from the consideration of any case, and no person shall gain any advantage by reason of such discharge of the jury.

10. That no person shall be barred from prosecuting or defending before any tribunal in this State, by himself or counsel, any civil cause to which he is a party.

11. That the right of trial by jury shall remain inviolate.

12. That in all prosecutions for libel or for the publication of papers investigating the official conduct of officers or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence; and that in all indictments for libel, the jury shall have the right to determine the law and the facts under the direction of the court.

13. That all courts shall be open; and that every person for any injury done him in his lands, goods, person or reputation, shall have

a remedy by due process of law; and right and justice shall be administered without sale, denial or delay.

14. That the State of Alabama shall never be made a defendant in any court of law or equity.

15. That excessive fines shall not be imposed nor cruel or unusual punishment inflicted.

16. That all persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses, when the proof is evident or the presumption great; and that excessive bail shall not in any case be required.

17. That the privilege of the writ of habeas corpus shall not be suspended by the authorities of this State.

18. That treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort; and that no person shall be convicted of treason, except on the testimony of two witnesses to the same overt act, or his own confession in open court.

19. That no person shall be attainted of treason by the Legislature; and no conviction shall work corruption of blood or forfeiture of estate.

20. That no person shall be imprisoned for debt.

21. That no power of suspending laws shall be exercised except by the Legislature.

22. That no *ex post facto* law, nor any law impairing the obligation of contracts, or making any irrevocable or exclusive grants of special privileges or immunities, shall be passed by the Legislature; and every grant of a franchise, privilege or immunity, shall forever remain subject to revocation, alteration or amendment.

23. That the exercise of the right of eminent domain shall never be abridged nor so construed as to prevent the Legislature from taking the property and franchises of incorporated companies, and subjecting them to public use in the same manner in which the property and franchises of individuals are taken and subjected; but private property shall not be taken for, or applied to, public use, unless just compensation be first made therefor; nor shall private property be taken for private use, or for the use of corporations, other than municipal, without the consent of the owner; provided, however, the Legislature may by law secure to persons or corporations the right of way over the lands of other persons or corporations, and by general laws provide for and regulate the exercise by persons and corporations of the rights herein reserved; but just compensation shall in all cases be first made to the owner; and provided, that the right of eminent domain shall not be so construed as to allow taxation or forced subscription for the benefit of railroads or any other kind of corporations, other than municipal, or for the benefit of any individual or association.

24. That all navigable waters shall remain forever public highways, free to the citizens of the State and the United States, without tax, impost or toll; and that no tax, toll, impost or wharfage shall be demanded or received from the owner of any merchandise or commodity for the use of the shores or any wharf erected on the shores, or in or over the waters, of any navigable stream, unless the same be expressly authorized by law.

25. That the citizens have a right, in a peaceable manner, to assemble together for the common good, and to apply to those invested with the power of government for redress or grievances or other purposes, by petition, address or remonstrance.

26. That every citizen has a right to bear arms in defense of himself and the State.

27. That no standing army shall be kept up without the consent of the Legislature, and, in that case, no appropriation for its support shall be made for a longer term than one year; and the military shall, in all cases, and at all times, be in strict subordination to the civil power.

28. That no soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor, in time of war, but in a manner to be prescribed by law.

29. That no title of nobility or hereditary distinction, privilege, honor or emolument, shall ever be granted or conferred in this State; and that no office shall be created, the appointment to which shall be for a longer time than during good behavior.

30. That immigration shall be encouraged; emigration shall not be prohibited, and no citizen shall be exiled.

31. That temporary absence from the State shall not cause a forfeiture of residence once obtained.

32. That no form of slavery shall exist in this State; and there shall not be any involuntary serviture, otherwise than for the punishment of crime, of which the party shall have been duly convicted.

33. The privilege of suffrage shall be protected by laws regulating elections and prohibiting, under adequate penalties, all undue influences from power, bribery, tumult or other improper conduct.

34. Foreigners who are, or may hereafter become, bona fide residents of this State, shall enjoy the same rights in respect to the possession, enjoyment and inheritance of property as native born citizens.

35. That the sole object and only legitimate end of government is to protect the citizen in the enjoyment of life, liberty and property, and when the government assumes other functions it is usurpation and oppression.

36. That this enumeration of certain rights shall not impair or deny others retained by the people; and, to guard against any encroachments on the rights herein retained, we declare that everything in this Declaration of Rights is excepted out of the general powers of government, and shall forever remain inviolate.

Article II

STATE AND COUNTY BOUNDARIES

37. The boundaries of this State are established and declared to be as follows, that is to say: Beginning at the point where the thirty-first degree of north latitude crosses the Perdido river; thence east, to the western boundary line of the State of Georgia; thence along said line to the southern boundary line of the State of Tennessee; thence west, along the southern boundary line of the State of Tennessee, crossing the Tennessee river, and on to the second intersection

of said river by said line; thence up said river to the mouth of Big Bear creek; thence by a direct line to the northwest corner of Washington county, in this State, as originally formed; thence southwardly along the line of the State of Mississippi, to the Gulf of Mexico; thence eastwardly, including all islands within six leagues of the shore, to the Perdido river; thence up the said river to the beginning; provided that the limits and jurisdiction of this State shall extend to and include any other land and territory hereafter acquired by contract or agreement with other States, or otherwise, although such land and territory are not included within the boundaries hereinbefore designated.

38. The boundaries of the several counties of this State, as they now exist, are hereby ratified and confirmed.

39. The Legislature may by a vote of two-thirds of each House thereof arrange and designate boundaries for the several counties of this State, which boundaries shall not be altered, except by a like vote; but no new county shall be formed hereafter of less extent than six hundred square miles, and no existing county shall be reduced to less than six hundred square miles; and no new county shall be formed unless it shall contain a sufficient number of inhabitants to entitle it to one Representative under the ratio of representation existing at the time of its formation, and leave the county or counties from which it is taken with the required number of inhabitants to entitle such county or counties, each, to separate representation; provided, that out of the counties of Henry, Dale and Geneva a new county of less than six hundred square miles may be formed under the provisions of this article, so as to leave said counties of Henry, Dale and Geneva with not less than five hundred square miles each.

40. No county line shall be altered or changed, or, in the event of the creation of new counties, shall be established, so as to run within seven miles of the county court house of any old county.

41. No court house or county site shall be removed except by a majority vote of the qualified electors of said county, voting at an election held for such purpose, and when an election has once been held no other election shall be held for such purpose until the expiration of four years; provided, that the county site of Shelby county shall remain at Columbiana, unless removed by a vote of the people as provided for in an act entitled, "An Act to provide for the permanent location of the county site of Shelby county, Alabama, by a vote of the qualified electors of said county," approved the 9th day of February, 1899, and the act amendatory thereof, approved the 20th day of February, 1899, or by an election held under the provisions of this article.

Article III

DISTRIBUTION OF POWERS OF GOVERNMENT

42. The powers of the government of the State of Alabama shall be divided into three distinct departments, each of which shall be confided to a separate body of magistracy, to-wit: That which are legislative, to one; those which are executive, to another; and those which are judicial, to another.

43. In the government of this State, except in the instances in this Constitution hereinafter expressly directed or permitted, the legislative department shall never exercise the executive and judicial powers, or either of them; the executive shall never exercise the legislative and judicial powers, or either of them; the judicial shall never exercise the legislative and executive powers, or either of them; to the end that it may be a government of laws and not of men.

Article IV

LEGISLATIVE DEPARTMENT

44. The legislative power of this State shall be vested in a Legislature, which shall consist of a Senate and a House of Representatives.

45. The style of the laws of this State shall be: "Be it enacted by the Legislature of Alabama," which need not be repeated, but the act shall be divided into sections for convenience, according to substance; and the sections designated merely by figures. Each law shall contain but one subject, which shall be clearly expressed in its title, except general appropriation bills, general revenue bills, and bills adopting a code, digest, or revision of statutes; and no law shall be revived, amended, or the provisions thereof extended or conferred, by reference to its title only; but so much thereof as is revived, amended, extended, or conferred, shall be re-enacted and published at length.

46. Senators and Representatives shall be elected by the qualified electors on the first Tuesday ofter the first Monday in November, unless the Legislature shall change the time of holding elections, and in every fourth year thereafter. The terms of office of the Senators and Representatives shall commence on the day after the general election at which they are elected, and expire on the day after the general election held in the fourth year after their election, except as otherwise provided in this Constitution. At the general election in the year nineteen hundred and two all the Representatives, together with the Senators for the even numbered districts and for the Thirty-fifth district, shall be elected. The terms of those Senators who represent the odd numbered districts under the law in force prior to the ratification of this Constitution are hereby extended until the day after the general election in the year nineteen hundred and six; and until the expiration of his terms as hereinbefore extended, each such Senator shall represent the district established by this Constitution bearing the number corresponding with that for which he was elected. In the year nineteen hundred and six, and in every fourth year thereafter, all the Senators and Representatives shall be elected. Whenever a vacancy shall occur in either House the Governor shall issue a writ of election to fill such vacancy for the remainder of the term.

47. Senators shall be at least twenty-five years of age, and Representatives twenty-one years of age at the time of their election. They shall have been citizens and residents of this State for three years, and residents of their respective counties or districts for one year next before their election, if such county or district shall have been

so long established; but if not, then of the county or district from which the same shall have been taken; and they shall reside in their respective counties or districts during their terms of office.

48. The Legislature shall meet quadrennially at the Capitol, in the Senate chamber, and in the Hall of the House of Representatives, on the second Tuesday in January next succeeding their election, or on such other day as may be prescribed by law; and shall not remain in session longer than sixty days at the first session held under this Constitution, nor longer than fifty days at any subsequent session. If at any time it should from any cause become impossible or dangerous for the Legislature to meet or remain at the Capitol or for the Senate to meet or remain in the Senate Chamber, or for the Representatives to meet or remain in the Hall of the House of Representatives, the Governor may convene the Legislature, or remove it, after it has convened, to some other place, or may designate some other place for the sitting of the respective Houses, or either of them, as necessity may require.

49. The pay of the members of the Legislature shall be four dollars per day, and ten cents per mile in going to and returning from the seat of government, to be computed by the nearest usual route traveled.

50. The Legislature shall consist of not more than thirty-five Senators, and not more than one hundred and five members of the House of Representatives, to be apportioned among the several districts and counties as prescribed in this Constitution; provided that in addition to the above number of Representatives each new county hereafter created shall be entitled to one Representative.

51. The Senate, at the beginning of each regular session, and at such other times as may be necessary, shall elect one of its members president pro tem thereof, to preside over its deliberations in the absence of the Lieutenant-Governor; and the House of Representatives, at the beginning of each regular session, and at such other times as may be necessary, shall elect one of its members as Speaker; and the President of the Senate and the Speaker of the House of Representatives shall hold their offices, respectively, until their successors are elected and qualified. In case of the temporary disability of either of said presiding officers, the House to which he belongs may elect one of its members to preside over that House, and to perform all the duties of such officer during the continuance of his disability; and such temporary officer, while performing duty as such, shall receive the same compensation to which the permanent officer is entitled by law, and no other. Each House shall choose its own officers, and shall judge of the election, returns and qualifications of its members.

52. A majority of each House shall constitute a quorum to do business; but a smaller number may adjourn from day to day and compel the attendance of absent members, in such manner, and under such penalties as each House may provide.

53. Each House shall have power to determine the rules of its proceedings, and to punish its members and other persons, for contempt or disorderly behavior in its presence; to enforce obedience to its processes; to protect its members against violence or offers of bribery

or corrupt solicitation; and, with the concurrence of two-thirds of the House, to expel a member, but not a second time for the same offense; and the two Houses shall have all the powers necessary for the Legislature of a free State.

54. A member of the Legislature expelled for corruption shall not thereafter be eligible to either House; and punishment for contempt or disorderly behavior shall not bar an indictment for the same offense.

55. Each House shall keep a Journal of its proceedings, and cause the same to be published immediately after its adjournment, excepting such parts as, in its judgment, may require secrecy; and the yeas and nays of the members of either House on any question shall, at the request of one-tenth of the members present, be entered on the Journal. Any member of either House shall have liberty to dissent from or protest against, any act or resolution which he may think injurious to the public, or to an individual, and have the reason for his dissent entered on the Journal.

56. Members of the Legislature shall in all cases, except treason, felony, violation of their oath of office, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either House they shall not be questioned in any other place.

57. The doors of each House shall be opened except on such occasions as, in the opinion of the House, may require secrecy; but no person shall be admitted to the floor of either House while the same is in session, except members of the Legislature, officers and employees of the two Houses, the Governor and his secretaries, representatives of the press and other persons to whom either House, by unanimous vote, may extend the privileges of its floor.

58. Neither House shall, without consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting, except as otherwise provided in this Constitution.

59. No Senator or Representative shall, during the term for which he shall have been elected, be appointed to any office of profit under this State, which shall have been created, or the emoluments of which shall have been increased during such term, except such offices as may be filled by election by the people.

60. No person convicted of embezzlement of the public money, bribery, perjury, or other infamous crime, shall be eligible to the Legislature or capable of holding any office of trust or profit in this State.

61. No law shall be passed except by bill, and no bill shall be so altered or amended on its passage through either House as to change the original purpose.

62. No bill shall become a law until it shall have been referred to a standing committee of each House, acted upon by such committee in session, and returned therefrom, which facts shall affirmatively appear upon the Journal of each House.

63. Every bill shall be read on three different days in each House, and no bill shall become a law unless on its final passage it be read at length, and the vote to be taken by yeas and nays, the names of the

members voting for and against the same be entered upon the Journal, and a majority of each House be recorded thereon as voting in its favor, except as otherwise provided in this Constitution.

64. No amendment to bills shall be adopted except by a majority of the House wherein the same is offered, nor unless the amendment, with the names of those voting for and against the same, shall be entered at length on the Journal of the House in which the same is adopted; and no amendment to bills by one House shall be concurred in by the other, unless a vote be taken by yeas and nays, and the names of the members voting for and against the same be recorded at length on the Journal; and no report of a committee of conference shall be adopted in either House except upon a vote taken by yeas and nays and entered on the Journal as herein provided for the adoption of amendments.

65. The Legislature shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale in this State of lottery or gift enterprise tickets, or tickets in any scheme in the nature of a lottery; and all acts or parts of acts heretofore passed by the Legislature of this State, authorizing a lottery or lotteries, and all acts amendatory thereof, or supplemental thereto, are hereby avoided.

66. The presiding officer of each House shall, in the presence of the House over which he presides, sign all bills and joint resolutions passed by the Legislature, after the same shall have been publicly read at length immediately before signing, and the fact of reading and signing shall be entered upon the Journal; but the reading at length may be dispensed with by a two-thirds vote of a quorum present, which fact shall also be entered on the Journal.

67. The Legislature shall prescribe by law the number, duties and compensation of the officers and employes of each House, and no payment shall be made from the State Treasury or be in any way authorized to any person except to an acting officer or employe elected or appointed in pursuance of law.

68. The legislature shall have no power to grant, or to authorize or require any county or municipal authority to grant, nor shall any county or municipal authority have power to grant, any extra compensation, fee or allowance to any public officer, servant or employee, agent or contractor, after service shall have been rendered or contract made; nor to increase or decrease the fees and compensation of such officers, during their terms of office; nor shall any officer of the State bind the State to the payment of any sum of money, but by authority of law; provided this section shall not apply to allowances made by commissioners' court, or boards of revenue to county officers for ex-officio services, nor prevent the Legislature from increasing or diminishing at any time the allowance to sheriffs or other officers for feeding, transferring or guarding prisoners.

69. All stationery, printing, paper and fuel used in the legislative and other departments of government, shall be furnished, and the printing, binding and distribution of laws, Journals, department reports and all other printing, binding and repairing, and furnishing the halls and rooms used for the meeting of the Legislature and its committees, shall be performed, under contract, to be given to the lowest responsible bidder below a maximum price, and under such

regulations as shall be prescribed by law; no member or officer of any department of the government shall be in any way interested in such contracts, and all such contracts shall be subject to the approval of the Governor, Auditor, and Treasurer.

70. All bills for raising revenue shall originate in the House of Representatives. The Governor, Auditor and Attorney General shall, before each regular session of the Legislature, prepare a general revenue bill, to be submitted to the Legislature for its information, and the Secretary of State shall have printed for the use of the Legislature a sufficient number of copies of the bill so prepared, which the Governor shall transmit to the House of Representatives as soon as organized to be used or dealt with as that House may elect. The Senate may propose amendments to revenue bills. No revenue bill shall be passed during the last five days of the session.

71. The general appropriation bill shall embrace nothing but appropriations for the ordinary expenses of the Executive, Legislative and Judicial departments of the State, for interest on the public debt, and for the public schools. The salary of no officer or employe shall be increased in such bill, nor shall any appropriation be made therein for any officer or employe, unless his employment and the amount of his salary have already been provided for by law. All other appropriations shall be made by separate bills, each embracing but one subject.

72. No money shall be paid out of the Treasury except upon appropriations made by law, and on warrants drawn by the proper officer in pursuance thereof; and a regular statement and account of receipts and expenditures of all public moneys shall be published annually, in such manner as may be by law directed.

73. No appropriation shall be made to any charitable or educational institution not under the absolute control of the State, other than normal schools established by law for the professional training of teachers for the public schools of the State, except by a vote of two-thirds of all the members elected to each House.

74. No act of the Legislature shall authorize the investment of any trust funds by executors, administrators, guardians or other trustees in the bonds or stocks of any private corporation; and any such acts now existing are avoided, saving investments heretofore made.

75. The power to change the venue in civil and criminal causes is vested in the courts, to be exercised in such manner as shall be provided by law.

76. When the Legislature shall be convened in special session, there shall be no legislation upon subjects other than those designated in the proclamation of the Governor calling such session, except by a vote of two-thirds of each House. Special sessions shall be limited to thirty days.

77. No State office shall be continued or created for the inspection or measuring of any merchandise, manufacture or commodity; but any county or municipality may appoint such officers when authorized by law.

78. No act of the Legislature changing the seat of government of the State shall become a law until the same shall have been submitted to the qualified electors of the State, at a general election, and

approved by a majority of such electors voting on the same; and such act shall specify the proposed new location.

79. A member of the Legislature who shall solicit, demand or receive or consent to receive, directly or indirectly, for himself or for another, from any company, corporation, association or person, any money, office, appointment, employment, reward, thing of value or enjoyment, or of personal advantage, or promise thereof, for his vote or official influence, or for withholding the same; or with an understanding, expressed or implied, that his vote, or official action, shall be in any way influenced thereby; or who shall solicit or demand any such money or other advantage, matter or thing aforesaid, for another as the consideration for his vote, or influence, or for withholding the same; or shall give or withhold his vote or influence, in consideration of the payment or promise of such money, advantage, matter or thing to another, shall be guilty of bribery within the meaning of this Constitution, and shall incur the disabilities and penalties provided thereby for such offense, and such additional punishment as is or shall be provided by law.

80. Any person who shall, directly or indirectly, offer, give or promise any money, or thing of value, testimonial, privilege or personal advantage, to any executive or judicial officer or member of the Legislature, to influence him in the performance of any of his public or official duties, shall be guilty of bribery, and be punished in such manner as may be provided by law.

81. The offense of corrupt solicitation of members of the Legislature, or of public officers of this State, or of any municipal division thereof, and any occupation or practice of solicitation of such members or officers, to influence their official action, shall be defined by law, and shall be punished by fine and imprisonment in the penitentiary; and the Legislature shall provide for the trial and punishment of the offenses enumerated in the two preceding sections, and shall require the judges to give the same specially in charge to the grand juries in all the counties of this State.

82. A member of the Legislature who has a personal or private interest in any measure or bill proposed or pending before the Legislature, shall disclose the fact to the House of which he is a member, and shall not vote thereon.

83. In all elections by the Legislature the members shall vote viva voce, and the votes shall be entered on the Journal.

84. It shall be the duty of the Legislature to pass such laws as may be necessary and proper to decide differences by arbitrators to be appointed by the parties who may choose that mode of adjustment.

85. It shall be the duty of the Legislature, at its first session after the ratification of this Constitution, and within every subsequent period of twelve years, to make provision by law for revising, digesting and promulgating the public statutes of this State of a general nature, both civil and criminal.

86. The Legislature shall pass such penal laws as it may deem expedient to suppress the evil practice of dueling.

87. It shall be the duty of the Legislature to regulate by law the cases in which deduction shall be made from the salaries or compensation of public officers for neglect of duty in their official capacities, and the amount of such deduction.

88. It shall be the duty of the Legislature to require the several counties of this State to make adequate provision for maintenance of the poor.

89. The Legislature shall not have power to authorize any municipal corporation to pass any laws inconsistent with the general laws of this State.

90. In the event of the annexation of any foreign territory to this State, the Legislature shall enact laws extending to the inhabitants of the acquired territory all the rights and privileges which may be required by the terms of acquisition not inconsistent with this Constitution. Should the State purchase such foreign territory, the Legislature, with the approval of the Governor, shall be authorized to expend any money in the Treasury not otherwise appropriated, and, if necessary, to provide also for the issuance of State bonds, to pay for the purchase of such foreign territory.

91. The Legislature shall not tax the property, real or personal, of the State, counties or other municipal corporations, or cemeteries; nor lots in incorporated cities or towns, or within one mile of any city or town to the extent of one acre; nor lots one mile or more distant from such cities or towns, to the extent of five acres, with the buildings thereon, when same are used exclusively for religious worship, for schools, or for purposes purely charitable.

92. The Legislature shall by law prescribe such rules and regulations as may be necessary to ascertain the value of real and personal property exempted from sale under legal process by this Constitution, and to secure the same to the claimant thereof as selected.

93. The State shall not engage in works of internal improvement, nor lend money or its credit in aid of such; nor shall the State be interested in any private or corporate enterprise, or lend money or its credit to any individual, association or corporation.

94. The Legislature shall not have power to authorize any county, city, town, or other subdivision of this State to lend its credit, or to grant public money or thing of value in aid of, or to, any individual, association or corporation whatsoever, or to become a stockholder in any such corporation, association or company, by issuing bonds or otherwise.

95. There can be no law of this State impairing the obligation of contracts by destroying or impairing the remedy for their enforcement; and the Legislature shall have no power to revive any right or remedy which may have become barred by lapse of time, or by any statute of this State. After suit has been commenced on any cause of action, the Legislature shall have no power to take away such cause of action, or destroy any existing defense to such suit.

96. The Legislature shall not enact any law not applicable to all the counties in the State, regulating costs and charges of courts, or fees, commissions or allowances of public officers.

97. The Legislature shall not authorize payment to any person of the salary of a deceased officer beyond the date of his death.

98. The Legislature shall not retire any officer on pay, or part pay, or make any grant to such retiring officer.

99. Lands belonging to or under the control of the State shall never be donated directly or indirectly to private corporations, associations, or individuals, or railroad companies; nor shall such lands be sold to

corporations or associations for a less price than that for which they are subject to sale to individuals; provided, that nothing contained in this section shall prevent the Legislature from granting a right of way, not exceeding one hundred and twenty-five feet in width, as a mere easement, for railroads or telegraph or telephone lines across State lands, and the Legislature shall never dispose of the land covered by such right of way except subject to such easement.

100. No obligation or liability of any person, association or corporation held or owned by this State, or by any county or other municipality thereof, shall ever be remitted, released or postponed, or in any way diminished, by the Legislature; nor shall such liability or obligation be extinguished except by payment thereof; nor shall such liability or obligation be exchanged or transferred except upon payment of its face value; provided, that this section shall not prevent the Legislature from providing by general law for the compromise of doubtful claims.

101. No State or county official shall, at any time during his term of office, accept either directly or indirectly any fee, money, office, appointment, employment, reward or thing of value, or of personal advantage, or the promise thereof, to lobby for or against any measure pending before the Legislature, or to give or withhold his influence to secure the passage or defeat of any such measure.

102. The Legislature shall never pass any law to authorize or legalize any marriage between any white person and a negro, or a descendant of a negro.

103. The Legislature shall provide by law for the regulation, prohibition or reasonable restraint of common carriers, partnerships, associations, trusts, monopolies, and combinations of capital, so as to prevent them or any of them from making scarce articles of necessity, trade or commerce, or from increasing unreasonably the cost thereof to the consumer, or preventing reasonable competition in any calling, trade or business.

LOCAL LEGISLATION

104. The Legislature shall not pass a special, private or local law in any of the following cases:

(1) Granting a divorce;

(2) Relieving any minor of the disabilities of non-age;

(3) Changing the name of any corporation, association, or individual;

(4) Providing for the adopting or legitimizing of any child;

(5) Incorporating a city, town or village;

(6) Granting a charter to any corporation, association, or individual;

(7) Establishing rules of descent or distribution;

(8) Regulating the time within which a civil or criminal action may be begun;

(9) Exempting any individual, private corporation or association from the operation of any general law;

(10) Providing for the sale of the property of any individual or estate;

(11) Changing or locating a county seat;

(12) Providing for a change of venue in any case;
(13) Regulating the rate of interest;
(14) Fixing the punishment of crime;
(15) Regulating either the assessment or collection of taxes, except in connection with the readjustment, renewal, or extension of existing municipal indebtedness created prior to the ratification of the Constitution of eighteen hundred and seventy-five;
(16) Giving effect to an invalid will, deed or other instrument;
(17) Authorizing any county, city, town, village, district or other political subdivision of a county, to issue bonds or other securities unless the issuance of said bonds or other securities shall have been authorized before the enactment of such local or special law, by a vote of the duly qualified electors of such county, township, city, town, village, district or other political subdivision of a county, at an election held for such purpose, in the manner that may be prescribed by law; provided, the Legislature may without such election, pass special laws to refund bonds issued before the date of the ratification of this Constitution;
(18) Amending, confirming or extending the charter of any private municipal corporation, or remitting the forfeiture thereof; provided, this shall not prohibit the Legislature from altering or re-arranging the boundaries of any city, town or village;
(19) Creating, extending or impairing any lien;
(20) Chartering or licensing any ferry, road or bridge;
(21) Increasing the jurisdiction and fees of justices of the peace, or the fees of constables;
(22) Establishing separate school districts;
(23) Establishing separate stock districts;
(24) Creating, increasing or decreasing fees, percentages or allowances of public officers;
(25) Exempting property from taxation or from levy or sale;
(26) Exempting any person from jury, road or other civil duty;
(27) Donating any lands owned by or under control of the State to any person or corporation;
(28) Remitting fines, penalties or forfeitures;
(29) Providing for the conduct of elections or designating places of voting, or changing the boundaries of wards, precincts or districts, except in the event of the organization of new counties, or the changing of the lines of old counties;
(30) Restoring the right to vote to persons convicted of infamous crimes, or crimes involving moral turpitude;
(31) Declaring who shall be liners between precincts or between counties.

104. The Legislature shall pass general laws for the cases enumerated in this section, provided that nothing in this section or article shall affect the right of the Legislature to enact local laws regulating or prohibiting the liquor traffic; but no such local law shall be enacted unless notice shall have been given as required in Section 106 of this Constitution.

105. No special, private or local law, except a law fixing the time of holding courts, shall be enacted in any case which is provided for by a general law, or when the relief sought can be given by any

court of this State; and the courts and not the Legislature, shall judge as to whether the matter of said law is provided for by a general law, and as to whether the relief sought can be given by any court; nor shall the Legislature indirectly enact any such special, private or local law by the partial repeal of a general law.

106. No special, private or local law shall be passed on any subject not enumerated in Section 104 of this Constitution, except in reference to fixing the time of holding courts, unless notice of the intention to apply therefor shall have been published, without cost to the State, in the county or counties where the matter or thing to be affected may be situated, which notice shall state the substance of the proposed law and be published at least once a week for four consecutive weeks in some newspaper published in such county or counties, or if there is no newspaper published therein, then by posting the said notice for four consecutive weeks at five different places in the county or counties prior to the introduction of the bill; and proof by affidavit that said notice has been given shall be exhibited to each House of the Legislature, and said proof spread upon the Journal. The courts shall pronounce void every special, private or local law which the Journals do not affirmatively show was passed in accordance with the provisions of this section.

107. The Legislature shall not, by special, private or local law, repeal or modify any special, private or local law except upon notice being given and shown as provided in the last preceding section.

108. The operation of a general law shall not be suspended for the benefit of any individual, private corporation or association; nor shall any individual, private corporation or association be exempted from the operation of any general law except as in this article otherwise provided.

109. The Legislature shall pass general laws under which local and private interests shall be provided for and protected.

110. A general law within the meaning of this article is a law which apples to the whole State; a local law is a law which applies to any political subdivision or subdivisions of the State less than the whole; a special or private law within the meaning of this article is one which applies to an individual, association or corporation.

111. No bill introduced as a general law in either House of the Legislature shall be so amended on its passage as to become a special, private or local law.

Article V

Executive Department

112. The Executive department shall consist of a Governor, Lieutenant-Governor, Attorney General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education, Commissioner of Agriculture and Industries, and a Sheriff for each county.

113. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled "The Governor of the State of Alabama."

114. The Governor, Lieutenant-Governor, Attorney General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education and Commissioner of Agriculture and Industries, shall be

elected by the qualified electors of the State at the same time and places appointed for the election of members of the Legislature in the year nineteen hundred and two, and in every fourth year thereafter.

115. The returns of every election for Governor, Lieutenant-Governor, Attorney General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education and Commissioner of Agriculture and Industries shall be sealed up and transmitted by the returning officers to the seat of government, directed to the Speaker of the House of Representatives, who shall, during the first week of the session to which such returns shall be made, open and publish them in the presence of both Houses of the Legislature in joint convention; but the Speaker's duty and the duty of the joint convention shall be purely ministerial. The result of the election shall be ascertained and declared by the Speaker from the face of the returns without delay. The person having the highest number of votes for any one of said offices shall be declared duly elected; but if two or more persons shall have an equal and the highest number of votes for the same office, the Legislature by joint vote, without delay, shall choose one of said persons for said office. Contested elections for Governor, Lieutenant-Governor, Attorney General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education and Commissioner of Agriculture and Industries shall be determined by both Houses of the Legislature in such manner as may be prescribed by law.

116. The Governor, Lieutenant-Governor, Attorney General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education and Commissioner of Agriculture and Industries, elected after the ratification of this Constitution, shall hold their respective offices for the term of four years from the first Monday after the second Tuesday in January next succeeding their election, and until their successors shall be elected and qualified. After the first election under this Constitution no one of said officers shall be eligible as his own successor; and the Governor shall not be eligible to election or appointment to any office under this State, or to the Senate of the United States during his term, and within one year after the expiration thereof.

117. The Governor and Lieutenant-Governor shall each be at least thirty years of age when elected, and shall have been citizens of the United States ten years and resident citizens of this State at least seven years next before the date of their election. The Lieutenant-Governor shall be ex-officio President of the Senate, but shall have no right to vote except in the event of a tie.

118. The Governor, Lieutenant-Governor, Attorney-General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education and Commissioner of Agriculture and Industries shall receive compensation to be fixed by law, which shall not be increased or diminished during the term for which they shall have been elected, and shall, except the Lieutenant-Governor, reside at the State Capital during the time they continue in office, except during epidemics. The compensation of the Lieutenant-Governor shall be the same as that received by the Speaker of the House, except while serving as Governor, during which time his compensation shall be the same as that allowed the Governor.

119. If the Legislature, at the session next after the ratification of this Constitution, shall enact a law increasing the salary of the Governor, such increase shall become effective and apply to the first Governor elected after the ratification of this Constitution, if the Legislature shall so determine.

120. The Governor shall take care that the laws be faithfully executed.

121. The Governor may require information in writing, under oath, from the officers of the executive department, named in this article, or created by statute, on any subject relating to the duties of their respective offices; and he may at any time require information in writing, under oath, from all officers and managers of State institutions, upon any subject relating to the condition, management and expenses of their respective offices and institutions. Any such officer or manager who makes a wilfully false report or fails without sufficient excuse to make the required report on demand, is guilty of an impeachable offense.

122. The Governor may, by proclamation, on extraordinary occasions, convene the Legislature at the seat of government, or at a different place if, since their last adjournment, that shall have become dangerous from an enemy, insurrection, or other lawless outbreak, or from any infectious or contagious disease; and he shall state specifically in such ploclamation each matter concerning which the action of that body is deemed necessary.

123. The Governor shall, from time to time, give the Legislature information of the state of the government, and recommend for its consideration such measures as he may deem expedient; and at the commencement of each regular session of the Legislature, and at the close of his term of office, he shall give information by written message of the condition of the State; and he shall account to the Legislature, as may be prescribed by law, for all moneys received and paid out by him or by his order; and at the commencement of each regular session he shall present to the Legislature estimates of the amount of money required to be raised by taxation for all purposes.

124. The Governor shall have power to remit fines and forfeitures under such rules and regulations as may be prescribed by law; and, after conviction, to grant reprieves, paroles, commutations of sentence and pardons, except in cases of impeachment. The Attorney General, Secretary of State, and State Auditor shall constitute a Board of Pardons, who shall meet on the call of the Governor, and before whom shall be laid all recommendations or petitions, for pardon, commutation or parole, in cases of felony; and the board shall hear them in open session, and give their opinion thereon in writing to the Governor, after which or on the failure of the board to advise for more than sixty days, the Governor may grant or refuse the commutation, parole or pardon, as to him seems best for the public interest. He shall communicate to the Legislature at each session every remission of fines and forfeitures, and every reprieve, commutation, parole or pardon, with his reasons therefor, in the opinions of the Board of Pardons in each case required to be referred, stating the name and crime of the convict, the sentence, its date, and the date of reprieve, commutation, parole or pardon. Pardons in cases of felony and other offenses involving moral turpitude shall not relieve from civil

and political disabilities, unless approved by the Board of Pardons and specifically expressed in the pardon.

125. Every bill which shall have passed both Houses of the Legislature, except as otherwise provided in this Constitution, shall be presented to the Governor; if he approve, he shall sign it; but if not, he shall return it with his objections to the House in which it originated, which shall shall enter the objections at large upon the Journal and proceed to reconsider it. If the Governor's message proposes no amendment which would remove his objections to the bill, the House in which the bill originated may proceed to reconsider, and if a majority of the whole number elected to that House vote for the passage of the bill, it shall be sent to the other House, which shall in like manner reconsider, and if a majority of the whole number elected to that House vote for the passage of the bill, the same shall become a law, notwithstanding the Governor's veto. If the Governor's message proposes amendment, which would remove his objections, the House to which it is sent may so amend the bill and send it with the Governor's message to the other House, which may adopt but cannot amend, said amendment; and both Houses concurring in the amendment, the bill shall again be sent to the Governor and acted on by him as other bills. If the House to which the bill is returned refuses to make such amendment, it shall proceed to reconsider; and if a majority of the whole number elected to that House shall vote for the passage of the bill, it shall be sent with the objections to the other House, by which it shall likewise be reconsidered, and if approved by a majority of the whole number elected to that House, it shall become a law. If the House to which the bill is returned makes the amendment and the other House declines to pass the same, that House shall proceed to reconsider, as though the bill had originated therein, and such proceedings shall be taken thereon as above provided. In every such case the vote of both Houses shall be determined by yeas and nays, and the names of the members voting for or against the bill shall be entered upon the Journals of each House respectively. If any bill shall not be returned by the Governor within six days, Sundays excepted, after it shall have been presented, the same shall become a law in like manner as if he had signed it, unless the Legislature, by its adjournment, prevent the return, in which case it shall not be a law; but when return is prevented by recess, such bill must be returned to the House in which it originated within two days after the reassembling, otherwise it shall become a law, but bills presented to the Governor within five days before the final adjournment of the Legislature may be approved by the Governor at any time within ten days after such adjournment, and if approved and deposited with the Secretary of State within that time shall become law. Every vote, order, or resolution to which concurrence of both Houses may be necessary, except on questions of adjournment and the bringing on of elections by the two Houses, and amending this Constitution, shall be presented to the Governor; and, before the same shall take effect, be approved by him; or, being disapproved, shall be repassed by both Houses according to the rules and limitations prescribed in the case of a bill.

126. The Governor shall have power to approve or disapprove any item or items of any appropriation bill embracing distinct items,

and the part or parts of the bill approved shall be the law, and the item or items disapproved shall be void, unless repassed according to the rules and limitations prescribed for the passage of bills over the executive veto; and he shall in writing state specifically the item or items he disapproves, setting the same out in full in his message, but in such case the enrolled bill shall not be returned with the Governor's objection.

127. In case of the Governor's removal from office, death or resignation, the Lieutenant-Governor shall become Governor. If both the Governor and Lieutenant-Governor be removed from office, die, or resign more than sixty days prior to the next general election at which any State officers are to be elected, a Governor and Lieutenant-Governor shall be elected at such election for the unexpired term, and in the event of a vacancy in the office, caused by the removal from office, death or resignation of the Governor and Lieutenant-Governor, pending such vacancy, and until their successors shall be elected and qualified, the office of Governor shall be held and administered by either the President pro tem of the Senate, Speaker of the House of Representatives, Attorney General, State Auditor, Secretary of State, or State Treasurer in the order herein named. In case of the impeachment of the Governor, his absence from the State for more than twenty days, unsoundness of mind, or other disability, the power and authority of the office shall, until the Governor is acquitted, return to the State, or is restored to his mind, or relieved from other disability, devolve in the order herein named upon the Lieutenant-Governor, President pro tem of the Senate, Speaker of the House of Representatives, Attorney General, State Auditor, Secretary of State and State Treasurer. If any of these officers be under any of the disabilities herein specified, the office of Governor shall be administered in the order named by such of these officers as may be free from such disability. If the Governor shall be absent from the State over twenty days, the Secretary of State shall notify the Lieutenant-Governor, who shall enter upon the duties of Governor; if both the Governor and Lieutenant-Governor shall be absent from the State over twenty days, the Secretary of State shall notify the President pro tem of the Senate, who shall enter upon the duties of Governor, and so on, in case of such absence, he shall notify each of the other officers named in their order, who shall discharge the duties of the office until the Governor or other officer entitled to administer the office in succession to the Governor returns. If the Governor-elect fails or refuses from any cause to qualify, the Lieutenant-Governor-elect shall qualify and exercise the duties of Governor until the Governor-elect qualifies; and in the event both the Governor-elect and the Lieutenant-Governor-elect from any cause fail to qualify, the President pro tem of the Senate, the Speaker of the House of Representatives, the Attorney General, State Auditor, Secretary of State and State Treasurer shall in like manner, in the order named, administer the office until the Governor-elect or Lieutenant-Governor-elect qualifies.

128. If the Governor or other officer administering the office shall appear to be of unsound mind, it shall be the duty of the Supreme Court of Alabama, at any regular term, or at any special term, which it is hereby authorized to call for that purpose, upon request in writing, verified by their affidavits, of any two of the officers named in

Section 127 of this Constitution, not next in succession to the office of Governor, to ascertain the mental condition of the Governor or other officer administering the office, and if he is adjudged to be of unsound mind, to so decree, a copy of which decree, duly certified, shall be filed in the office of Secretary of State; and in the event of such adjudication it shall be the duty of the officer next in succession to perform the duties of the office until the Governor or other officer administering the office is restored to his mind. If the incumbent denies that the Governor or other person entitled to administer the office has been restored to his mind, the Supreme Court, at the instance of any officer named in Section 127 of this Constitution, shall ascertain the truth concerning the same, and if the officer has been restored to his mind, shall so adjudge and file a duly certified copy of its decree with the Secretary of State; and in the event of such adjudication, the office shall be restored to him. The Supreme Court shall prescribe the method of taking testimony and the rules of practice in such proceedings, which rules shall include a provision for the service of notice of such proceedings on the Governor or person acting as Governor.

129. The Lieutenant-Governor, President pro tem of the Senate, Speaker of the House, Attorney General, State Auditor, Secretary of State or State Treasurer, while administering the office of Governor, shall receive like compensation as that prescribed by law for the Governor, and no other.

130. No person shall at the same time hold the office of Governor and any other office, civil or military, under this State, or the United States, or any other State or government, except as otherwise provided in this Constitution.

131. The Governor shall be commander-in-chief of the militia and volunteer forces of this State, except when they shall be called into the service of the United States, and he may call out the same to execute the laws, suppress insurrection and repel invasion, but need not command in person unless directed to do so by resolution of the Legislature; and when acting in the service of the United States, he shall appoint his staff, and the Legislature shall fix his rank.

132. No person shall be eligible to the office of Attorney General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education, or Commissioner of Agriculture and Industries, unless he shall have been a citizen of the United States at least seven years, and shall have resided in this State at least five years next preceding his election, and shall be at least twenty-five years old when elected.

133. There shall be a seal of the State which shall be used officially by the Governor, and the seal now in use shall continue to be used until another shall have been adopted by the Legislature. The seal shall be called "The Great Seal of the State of Alabama."

134. The Secretary of State shall be the custodian of the Great Seal of the State, and shall authenticate therewith all official acts of the Governor, except his approval of laws, resolutions, appointments to office and administrative orders. He shall keep a register of the official acts of the Governor, and when necessary, shall attest them, and lay copies of same together with copies of all papers relative thereto, before either House of the Legislature when required to do so, and shall perform such other duties as may be prescribed by law.

135. All grants and commissions shall be issued in the name and by the authority of the State of Alabama, sealed with the Great Seal of

the State, signed by the Governor and countersigned by the Secretary of State.

136. Should the office of Attorney General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education, or Commissioner of Agriculture and Industries become vacant from any cause the Governor shall fill such vacancy until the disability is removed or a successor elected and qualified. In case any of said officers shall become of unsound mind, such unsoundness shall be ascertained by the Supreme Court upon the suggestion of the Governor.

137. The Attorney General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education, and Commissioner of Agriculture and Industries shall perform such duties as may be prescribed by law. The State Treasurer and State Auditor shall every year, at a time fixed by the Legislature, make a full and complete report to the Governor, showing the receipts and disbursements of every character, all claims audited and paid out, by items, and all taxes and revenues collected and paid into the treasury, and the sources thereof. They shall make reports oftener upon any matters pertaining to their offices, if required by the Governor or the Legislature. The Attorney General, State Auditor, Secretary of State, State Treasurer, and Commissioner of Agriculture and Industries shall not receive to their use any fees, costs, perquisites of office or other compensation than the salaries prescribed by law, and all fees that may be payable for any services performed by such officers shall be at once paid into the State Treasury.

138. A Sheriff shall be elected in each county by the qualified electors thereof, who shall hold office for a term of four years, unless sooner removed, and he shall be ineligible to such office as his own successor; provided, that the terms of all Sheriffs expiring in the year nineteen hundred and four are hereby extended until the time of the expiration of the terms of the other executive officers of this State in the year nineteen hundred and seven, unless sooner removed. Whenever any prisoner is taken from jail, or from the custody of any Sheriff or his deputy, and put to death, or suffers grievous bodily harm, owing to the neglect, connivance, cowardice, or other grave fault of the Sheriff, such Sheriff may be impeached under Section 174 of the Constitution. If the Sheriff be impeached, and thereupon convicted, he shall not be eligible to hold any office in this State during the time for which he had been elected or appointed to serve as Sheriff.

Article VI

JUDICIAL DEPARTMENT

139. The judicial power of the State shall be vested in the Senate sitting as a court of impeachment, a Supreme Court, Circuit Courts, Chancery Courts, Courts of Probate, such courts of law and equity inferior to the Supreme Court, and to consist of not more than five members, as the Legislature from time to time may establish, and such persons as may be by law invested with powers of a judicial nature; but no court of general jurisdiction, at law or in equity, or both, shall hereafter be established in and for any one county having

a population of less than twenty thousand, according to the next preceding Federal census, and property assessed for taxation at a less valuation than three million five hundred thousand dollars.

140. Except in cases otherwise directed in this Constitution, the Supreme Court shall have appellate jurisdiction only, which shall be coextensive with the State, under such restrictions and regulations, not repugnant to this Constitution, as may from time to time be prescribed by law, except where jurisdiction over appeals is vested in some inferior court, and made final therein; provided, that the Supreme Court shall have power to issue writs of injunction, habeas corpus, quo warranto, and such other remedial and original writs as may be necessary to give it a general superintendence and control of inferior jurisdictions.

141. The Supreme Court shall be held at the seat of government, but if that shall become dangerous from any cause, it may convene at or adjourn to another place.

142. Except as otherwise authorized in this article, the State shall be divided into convenient circuits. For each circuit there shall be chosen a judge, who shall, for one year next preceding his election and during his continuance in office, reside in the circuit for which he is elected.

143. The Circuit Court shall have original jurisdiction in all matters civil and criminal within the State not otherwise excepted in this Constitution; but in civil cases, other than suits for libel, slander, assault and battery, and ejectment, it shall have no original jurisdiction except where the matter or sum in controversy exceeds fifty dollars.

144. A Circuit Court, or a court having the jurisdiction of the Circuit Court, shall be held in each county in the State at least twice in each year, and judges of the several courts mentioned in this section may hold court for each other when they deem it expedient, and shall do so when directed by law. The judges of the several courts mentioned in this section shall have power to issue writs of injunction, returnable to the Court of Chancery, or courts having the jurisdiction of Courts of Chancery.

145. The Legislature shall have power to establish a Court or Courts of Chancery, with original and appellate jurisdiction, except as otherwise authorized in this article. The State shall be divided by the Legislature into convenient Chancery divisions; each division shall be divided into districts, and for each division there shall be a chancellor, who shall have resided in the division for which he shall be elected or appointed for one year next preceding his election or appointment, and shall reside therein during his continuance in office.

146. A Chancery Court, or a court having the jurisdiction of the Chancery Court, shall be held in each district, at a place to be fixed by law, at least twice in each year, and the chancellors may hold court for each other when they deem it necessary, and shall do so when directed by law.

147. Any county having a population of twenty thousand or more, according to the next preceding Federal census, and also taxable property of three million five hundred thousand dollars or more in value, according to the next preceding assessment of property for

State and county taxation, need not be included in any circuit or chancery division; but if the value of its taxable property shall be reduced below that limit, or if its population shall be reduced below that number, the Legislature shall include such county in a circuit and chancery division, or either, embracing more than one county. No Circuit or Chancery division shall contain less than three counties, unless there be embraced therein a county having a population of twenty thousand or more, and taxable property of three million five hundred thousand dollars or more in value.

148. The Legislature may confer upon the Circuit Court or the Chancery Court the jurisdiction of both of said courts. In counties having two or more courts of record, the Legislature may provide for the consolidation of all or any such courts of record, except the Probate Court, with or without separate divisions, and a sufficient number of judges for the transaction of the business of such consolidated court.

149. The Legislature shall have power to establish in each county a court of probate, with general jurisdiction of orphan's business and with power to grant letters testamentary and administration; provided, that whenever any court having equity powers has taken jurisdiction of the settlement of any estate, it shall have power to do all things necessary for the settlement of such estate, including the appointment and removal of administrators, executors, guardians and trustees, and including action upon the resignation of either of them.

150. The Justices of the Supreme Court, Chancellors and the Judges of the Circuit Courts, and other courts of record, except Probate Courts, shall, at stated times, receive for their services a compensation which shall not be diminished during their official terms; they shall receive no fees or perquisites, nor hold any office, except judicial offices, of profit or trust under this State or the United States, or any other government during the time for which they have been elected or appointed.

151. The Supreme Court shall consist of one Chief Justice, and such number of Associate Justices as may be prescribed by law.

152. The Chief Justice and Associate Justices of the Supreme Court, Judges of the Circuit Courts, Judges of the Probate Courts, and Chancellors shall be elected by the qualified electors of the State, circuits, counties and chancery divisions, for which such courts may be established, at such times as may be prescribed by law, except as herein otherwise provided.

153. The Judges of such inferior courts of law and equity as may be by law established, shall be elected or appointed in such mode as the Legislature may prescribe.

154. Chancellors and Judges of all courts of record shall have been citizens of the United States and of this State for five years next preceding their election or appointment, and shall not be less than twenty-five years of age, and, except Judges of Probate, shall be learned in the law.

155. Except as otherwise provided in this article, the Chief Justice and Associate Justices of the Supreme Court, Circuit Judges, Chancellors, and Judges of Probate, shall hold office for the term of six years, and until their successors are elected or appointed and qualified; and the right of such Judges and Chancellors to hold their offices for the full term hereby prescribed shall not be affected by any change

hereafter made by law in any circuit, division, or county, or in the mode of time of election.

156. The Chief Justice and Associate Justices of the Supreme Court shall be choses at an election to be held at the time and places fixed by law for the election of members of the House of Representatives of the Congress of the United States, until the Legislature shall by law change the time of holding such election. The term of office of the Chief Justice, who shall be elected in the year nineteen hundred and four, shall be as provided in the last preceding section. The successors of two of the Associate Justices elected in the year nineteen hundred and four shall be elected in the year nineteen hundred and six, and the successors of the other two Associate Justices elected in nineteen hundred and four, shall be elected in the year nineteen hundred and eight. The Associate Justices of said court elected in the year nineteen hundred and four shall draw or cast lots among themselves to determine which of them shall hold office for the terms ending, respectively, in the years nineteen hundred and six and nineteen hundred and eight, and until their respective successors are elected or appointed and qualified. The result of such determination shall be certified to the Governor by such Associate Justices, or a majority of them, prior to the first day of January, nineteen hundred and five, and such certificate shall be entered upon the minutes of the court. In the event of the failure of said Associate Justices to make and certify such determination, the Governor shall designate the terms for which they shall respectively hold office, as above provided, and shall issue his proclamation accordingly. In the event of an increase or reduction by law of the number of Associate Justices of the Supreme Court, the Legislature shall, as nearly as may be, provide for the election each second year, of one-third of the members of said court.

157. All judicial officers within their respective jurisdictions shall, by virtue of their offices, be conservators of the peace.

158. Vacancies in the office of any of the Justices of the Supreme Court or Judges who hold office by election, or Chancellors of this State, shall be filled by appointment by the Governor. The appointee shall hold his office until the next general election for any State officer held at least six months after the vacancy occurs, and until his successor is elected and qualified; the successor chosen at such election shall hold office for the unexpired term and until his successor is elected and qualified.

159. Whenever any new circuit or chancery division is created, the Judge or Chancellor therefor shall be elected at the next general election for any State officer for a term to expire at the next general election for Circuit Judge and Chancellor; provided, that if said new circuit or chancery division is created more than six months before such general election for any State officer, the Governor shall appoint some one as Judge or Chancellor, as the case may be, to hold the office until such election.

160. If in any case, civil or criminal, pending in any Circuit Court, Chancery Court, or in any court of general jurisdiction having any part of the jurisdiction of a Circuit and a Chancery Court, or either of them in this State, the presiding judge or chancellor shall, for any legal cause, be incompetent to try, hear or render judgment in such case, the parties, or their attorneys of record, if it be a civil case, or

the solicitor or prosecuting officer, and the defendant or defendants, if it be a criminal case, may agree upon some disinterested person practicing in the court and learned in the law, to act as special judge or chancellor to sit as a court, and to hear, decide and render judgment in the same manner and to the same effect as such incompetent Chancellor or Judge could have rendered but for such incompetency. If the case be a civil one, and the parties or their attorneys of record do not agree; or if it be a criminal one, and the prosecuting officer and the defendant or defendants do not agree upon a special judge or chancellor, or if either party in a civil cause is not represented in court, the Register in Chancery or the clerk of such Circuit or other court in which said cause is pending, shall appoint a special judge or chancellor, who shall preside, try and render judgment as in this section provided. The Legislature may prescribe other methods for supplying special judges in such cases.

161. The Legislature shall have power to provide for the holding of Chancery and Circuit Courts, and for the holding of courts having the jurisdiction of Circuit and Chancery Courts, or either of them, when the Chancellors or Judges thereof fail to attend regular terms.

162. No Judge of any court of record in this State shall practice law in any of the courts of this State, or of the United States.

163. Registers in Chancery shall be appointed by the Chancellors of the respective divisions, and shall have been at least twelve months before their appointment, and shall be at the time of their appointment and during their continuance in office, resident citizens of the district for which they are appointed. They shall hold office for the term for which the Chancellor making such appointment was elected or appointed. Such registers shall receive as compensation for their services only such fees and commissions as may be specifically prescribed by law, which fees shall be uniform throughout the State.

164. The clerk of the Supreme Court shall be appointed by the Judges thereof, and shall hold office for the term of six years; and the clerks of such inferior courts as may be established by law shall be selected in such manner as the Legislature may provide.

165. Clerks of the Circuit Court shall be elected by the qualified electors in each county for the term of six years, and may, when appointed by the Chancellor, also fill the office of Register in Chancery. Vacancies in such office of clerk shall be filled by the Judge of the Circuit Court for the unexpired term.

166. The clerk of the Supreme Court and Registers in Chancery may be removed from office by the Justices of the Supreme Court, and by the Chancellors, respectively, for cause, to be entered at length upon the minutes of the court.

167. A Solicitor for each judicial circuit or other territorial subdivision prescribed by the Legislature, shall be elected by the qualified electors of those counties in such circuit or other territorial subdivision in which such Solicitor prosecutes criminal cases, and such Solicitor shall be learned in the law, and shall at the time of his election and during his continuance in office, reside in a county (in the circuit) in which he prosecutes criminal cases, or other territorial subdivision for which he is elected, and his term of office shall be four years, and he shall receive no other compensation than a salary, to be prescribed by law, which shall not be increased during the term for which he was elected; provided, that this article shall not operate to

abridge the term of any Solicitor now in office; and, provided further, that the Solicitor elected in the year nineteen hundred and four shall hold office for six years, and until their successors are elected and qualified; and provided further, that the Legislature may provide by law for the appointment by the Governor or the election by the qualified electors of a county for a Solicitor for any county.

168. In each precinct not lying within, or partly within, any city or incorporated town of more than fifteen hundred inhabitants, there shall be elected by the qualified electors of such precinct not exceeding two Justices of the Peace, and one Constable. Where one or more precincts lie within, or partly within, a city or incorporated town having more than fifteen hundred inhabitants, the Legislature may provide by law for the election of not more than two Justices of the Peace and one Constable, for each of such precincts, or an inferior court for such precinct or precincts, in lieu of all Justices of the Peace therein. Justices of the Peace, and the inferior courts in this section provided for, shall have jurisdiction in all civil cases where the amount in controversy does not exceed one hundred dollars, except in cases of libel, slander, assault and battery and ejectment. The Legislature may provide by law what fees may be charged by Justices of the Peace and Constables, which fees shall be uniform throughout the State. The right of appeal from any judgment of a Justice of the Peace, or from any inferior court authorized by this section, without the prepayment of costs, and also the term of office of such Justices, and of the Judges of such inferior courts, and of Notaries Public, shall be provided for by law. The Governor may appoint Notaries Public without the powers of a Justice of the Peace, and may, except where otherwise provided by an act of the Legislature, appoint not more than one Notary Public with all of the powers and jurisdiction of a Justice of the Peace for each precinct in which the election of Justices of the Peace shall be authorized.

169. In all prosecutions for rape and assault with intent to ravish, the court may, in its discretion, exclude from the court room all persons, except such as may be necessary in the conduct of the trial.

170. The style of all processes shall be "The State of Alabama," and all prosecutions shall be carried on in the name and by the authority of the same, and shall conclude "Against the peace and dignity of the State."

171. The Legislature shall have the power to abolish any court, except the Supreme Court and the Probate Courts, whenever its jurisdiction and functions have been conferred upon some other court.

172. Nothing in this article shall be so construed as to abridge the term of office of any officer now in office.

Article VII

IMPEACHMENTS

173. The Governor, Lieutenant-Governor, Attorney General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education, Commissioner of Agriculture and Industries, and Justices of the Supreme Court may be removed from office for wilful neglect of duty, corruption in office, incompetency, or intemprance

in the use of intoxicating liquors or narcotics to such an extent, in view of the dignity of the office and importance of its duties, as unfits the officer for the discharge of such duties, or for any offense involving moral turpitude while in office, or committed under color thereof, or connected therewith, by the Senate sitting as a court of impeachment, under oath or affirmation, on articles or charges preferred by the House of Representatives. When the Governor or Lieutenant-Governor is impeached, the Chief Justice, or if he be absent or disqualified, then one of the Associate Justices of the Supreme Court, to be selected by it, shall preside over the Senate when sitting as a court of impeachment. If at any time when the Legislature is not in session, a majority of all the members elected to the House of Representatives shall certify in writing to the Secretary of State their desire to meet to consider the impeachment of the Governor, Lieutenant-Governor, or other officer administering the office of Governor, it shall be the duty of the Secretary of State immediately to notify the Speaker of the House, who shall, within ten days after receipt of such notice, summon the members of the House by publication in some newspaper published at the Capital to assemble at the Capitol on a day to be fixed by the Speaker, not later than fifteen days after the receipt of the notice to him from the Secretary of State, to consider the impeachment of the Governor, Lieutenant-Governor or other officer administering the office of Governor. If the House of Representatives prefer articles of impeachment, the Speaker of the House shall forthwith notify the Lieutenant-Governor, unless he be the officer impeached, in which event he shall notify the Secretary of State, who shall summon in the manner herein above provided for, the members of the Senate to assemble at the Capitol on a day to be named in said summons, not later than ten days after receipt of the notice from the Speaker of the House, for the purpose of organizing as a court of impeachment. The Senate, when thus organized, shall hear and try such articles of impeachment against the Governor, Lieutenant-Governor or other officer administering the office of Governor, as may be preferred by the House of Representatives.

174. The Chancellors, Judges of the Circuit Courts, Judges of the Probate Courts, and Judges of other courts from which an appeal may be taken directly to the Supreme Court, and Solicitors and Sheriffs, may be removed from office for any of the causes specified in the preceding section or elsewhere in this Constitution, by the Supreme Court, under such regulations as may be prescribed by law. The Legislature may provide for the impeachment or removal of other officers than those named in this article.

175. The clerks of the Circuit Courts, or courts of like jurisdiction, and of Criminal Courts, Tax Collectors, Tax Assessors, County Treasurers, County Superintendents of Education, Judges of inferior courts created under authority of Section 168 of this Constitution, Coroners, Justices of the Peace, Notaries Public, Constables, and all other county officers, Mayors, Intendants and all other officers of incorporated cities and towns in this State, may be removed from office for any of the causes specified in Section 173 of this Constitution, by the Circuit or other courts of like jurisdiction or a Criminal Court of the county in which such officers hold their office, under

such regulations as may be prescribed by law; provided, that the right of trial by jury and appeal in such cases shall be secured.

176. The penalties in cases arising under the three preceding sections shall not extend beyond removal from office, and disqualifications from holding office, under the authority of this State, for the term for which the officer was elected or appointed; but the accused shall be liable to indictment and punishment as prescribed by law.

Article VIII

SUFFRAGE AND ELECTIONS

177. Every male citizen of this State, who is a citizen of the United States, and every male resident of foreign birth, who, before the ratification of this Constitution, shall have legally declared his intention to become a citizen of the United States, twenty-one years old or upward, not laboring under any of the disabilities named in this article, and possessing the qualifications required by it, shall be an elector, and shall be entitled to vote at any election by the people; provided, that all foreigners who have legally declared their intention of becoming citizens of the United States, shall, if they fail to become citizens thereof at the time they are entitled to become such, cease to have the right to vote until they become such citizens.

178. To entitle a person to vote at any election by the people, he shall have resided in the State at least two years, in the county one year, and in the precinct or ward three months, immediately preceding the election at which he offers to vote, and he shall have been duly registered as an elector, and shall have paid on or before the first day of February next preceding the date of the election at which he offers to vote, all poll taxes due from him for the year nineteen hundred and one, and for each subsequent year; provided, that any elector who, within three months next preceding the date of the election at which he offers to vote, has removed from one precinct or ward to another precinct or ward in the same county, incorporated town or city, shall have the right to vote in the precinct or ward from which he has so removed, if he would have been entitled to vote in such precinct or ward but for such removal.

179. All elections by the people shall be by ballot, and all elections by persons in a representative capacity shall be viva voce.

180. The following male citizens of this State, who are citizens of the United States, and every male resident of foreign birth, who, before the ratification of this Constitution, shall have legally declared his intention to become a citizen of the United States, and who shall not have had an opportunity to perfect his citizenship prior to the twentieth day of December, nineteen hundred and two, twenty-one years old or upwards, who, if their place of residence shall remain unchanged, will have, at the date of the next general election the qualifications as to residence prescribed in Section 178 of this Constitution, and who are not disqualified under Section 182 of this Constitution, shall, upon application be entitled to register as electors prior to the twentieth day of December, nineteen hundred and two, namely:

First—All who have honorably served in the land or naval forces of the United States in the war of 1812, or in the war with Mexico, or in any war with the Indians, or in the war between the States, or in the war with Spain, or who honorably served in the land or naval forces of the Confederate States, or of the State of Alabama in the war between the States; or,

Second—The lawful descendants of persons who honorably served in the land or naval forces of the United States in the war of the American Revolution, or in the war of 1812, or in the war with Mexico, or in any war with the Indians, or in the war between the States, or in the land or naval forces of the Confederate States, or of the State of Alabama in the war between the States; or,

Third—All persons who are of good character and who understand the duties and obligations of citizenship under a republican form of government.

181. After the first day of January, nineteen hundred and three, the following persons, and no others, who, if their place of residence shall remain unchanged, will have, at the date of the next general election, the qualifications as to residence prescribed in Section 178 of this Constitution, shall be qualified to register as electors, provided, they shall not be disqualified under Section 182 of this Constitution.

First—Those who can read and write any article of the Constitution of the United States in the English language, and who are physically unable to work; and those who can read and write any article of the Constitution of the United States in the English language, and who have worked or been regularly engaged in some lawful employment, business or occupation, trade or calling for the greater part of the twelve months next preceding the time they offer to register; and those who are unable to read and write, if such inability is due solely to physical disability; or,

Second—The owner in good faith, in his own right, or the husband of a woman who is the owner in good faith, in her own right, of forty acres of land situate in this State, upon which they reside; or the owner in good faith, in his own right, or the husband of any woman who is the owner in good faith, in her own right, of real estate, situate in this State, assessed for taxation at the value of three hundred dollars or more, or the owner in good faith, in his own right, or the husband of a woman who is the owner in good faith, in her own right, of personal property in this State assessed for taxation at three hundred dollars or more; provided, that the taxes due upon such real or personal property for the year next preceding the year in which he offers to register shall have been paid, unless the assessment shall have been legally contested and is undetermined.

182. The following persons shall be disqualified both from registering and from voting, namely:

All idiots and insane persons; those who shall by reason of conviction of crime be disqualified from voting at the time of the ratification of this Constitution; those who shall be convicted of treason, murder, arson, embezzlement, malfeasance in office, larceny, receiving stolen property, obtaining property or money under false pretenses, perjury, subordination of perjury, robbery, assault with intent to rob, burglary, forgery, bribery, assault and battery on the wife, bigamy, living in adultery, sodomy, incest, rape, miscegenation, crime against

nature, or any crime punishable by imprisonment in the penitentiary, or of any infamous crime or crime involving moral turpitude; also any person who shall be convicted as a vagrant or tramp, or of selling or offering to sell his vote or the vote of another, or of making or offering to make false return in any election by the people or in any primary election to procure the nomination or election of any person to any office, or of suborning any witness or registrar to secure the registration of any person as an elector.

183. No person shall be qualified to vote or participate in any primary election, party convention, mass meeting or other method of party action of any political party or faction, who shall not possess the qualifications prescribed in this article for an elector, or who shall be disqualified from voting under the provisions of this article.

184. No person, not registered and qualified as an elector under the provisions of this article, shall vote at the general election in nineteen hundred and two, or at any subsequent State, county, or municipal election, general, local or special; but the provisions of this article shall not apply to any election held prior to the general election in the year nineteen hundred and two.

185. Any elector whose right to vote shall be challenged for any legal cause before an election officer, shall be required to swear or affirm that the matter of the challenge is untrue before his vote shall be received, and any one who willfully swears or affirms falsely thereto shall be guilty of perjury, and upon conviction thereof shall be imprisoned in the penitentiary for not less than one nor more than five years.

186. The Legislature shall provide by law for the registration, after the first day of January, nineteen hundred and three, of all qualified electors. Until the first day of January, nineteen hundred and three, all electors shall be registered under and in accordance with the requirements of this section, as follows:

First—Registration shall be conducted in each county by a board of three reputable and suitable persons resident in the county, who shall not hold any elective office during their term, to be appointed within sixty days after the ratification of this Constitution, by the Governor, Auditor and Commissioner of Agriculture and Industries, or by a majority of them, acting as a board of appointment. If one or more of the persons appointed on such board of registration shall refuse, neglect, or be unable to qualify or serve, or if a vacancy or vacancies occur in the membership of the board of registrars from any cause, the Governor, Auditor and Commissioner of Agriculture and Industries, or a majority of them, acting as a board of appointment, shall make other appointments to fill such board. Each registrar shall receive two dollars per day, to be paid by the State, and disbursed by the several Judges of Probate, for each entire day's attendance upon the sessions of the board. Before entering upon the performance of the duties of his office, each registrar shall take the same oath required of the judicial officers of the State, which oath may be administered by any person authorized by law to administer oaths. the oath shall be in writing and subscribed by the registrar, and filed in the office of the Judge of Probate of the county.

Second—Prior to the first day of August, nineteen hundred and two, the Board of Registrars in each county shall visit each precinct at least once, and oftener, if necessary to make a complete registration

of all persons entitled to register, and shall remain there at least one day from eight o'clock in the morning until sunset. They shall give at least twenty days' notice of the time when, and the place in the precinct where, they will attend to register applicants for registration, by bills posted at five or more public places in each election precinct, and by advertisement once a week for three successive weeks in a newspaper, if there be one published in the county. Upon failur to give such notice, or to attend any appointment made by them in any precinct, they shall, after like notice, fill new appointments therein; but the time consumed by the board in completing such registration shall not exceed sixty working days in any county, except that in counties of more than nine hundred square miles in area, such board may consume seventy-five working days in completing the registration, and except that in counties in which there is any city of eight thousand or more inhabitants, the board may remain in session, in addition to the time hereinbefore prescribed, for not more than three successive weeks in each of such cities; and thereafter the board may sit from time to time in each of such cities not more than one week in each month, and except that in the county of Jefferson the board may hold an additional session of not exceeding five consecutive days duration for each session, in each town or city of more than one thousand and less than eight thousand inhabitants. No person shall be registered except at the county site or in the precinct in which he resides. The registrars shall issue to each person registered a certificate of registration.

Third—The Board of Registrars shall not register any person between the first day of August, nineteen hundred and two, and the Friday next preceding the day of election in November, nineteen hundred and two. On Friday and Saturday next preceding the day of election in November, nineteen hundred and two, they shall sit in the court house of each county during such days, and shall register all applicants having the qualifications prescribed by Section 180 of this Constitution, and not disqualified under Section 182, who shall have reached the age of twenty-one years after the first day of August, nineteen hundred and two, or who shall prove to the reasonable satisfaction of the board that, by reason of physical disability or unavoidable absence from the county, they had no opportunity to register prior to the first day of August, nineteen hundred and two, and they shall not on such days register any other persons. When there are two or more court houses in a county, the registrars may sit during such two days at the court house they may select, but shall give ten days' notice, by bills posted at each of the court houses, designating the court house at which they will sit.

Fourth—The Board of Registrars shall hold sessions at the court house of their respective counties during the entire third week in November, nineteen hundred and two, and for six working days next prior to the twentieth day of December, nineteen hundred and two, during which sessions they shall register all persons applying who possess the qualifications prescribed in Section 180 of this Constitution, and who shall not be disqualified under Section 182. In counties where there are more than two court houses the Board of Registrars shall divide the time equally between them. The Board of Registrars shall give notice of the time and place of such sessions

by posting notices at each court house in their respective counties, and at each voting place and at three other public places in the county, and by publication once a week for two consecutive weeks in a newspaper, if one be published in the county; such notices to be posted and such publications to be commenced as early as practicable in the first week of November, nineteen hundred and two. Failure on the part of the registrars to conform to the provisions of this article as to the giving of the required notices shall not invalidate any registration made by them.

Fifth—The Board of Registrars shall have power to examine, under oath or affirmation, all applicants for registration, and to take testimony touching the qualifications of such applicants. Each member of such board is authorized to administer the oath to be taken by the applicants and witnesses, which shall be in the following form, and subscribed by the person making it, and preserved by the board, namely: "I solemnly swear (or affirm) that in the matter of the application of ——— ——— for registration as an elector, I will speak the truth, the whole truth, and nothing but the truth, so help me God." Any person who upon such examination makes any wilfully false statement in reference to any material matter touching the qualification of any applicant for registration, shall be guilty of perjury, and upon conviction thereof, shall be imprisoned in the penitentiary for not less than one nor more than five years.

Sixth—The action of the majority of the Board of Registrars shall be the action of the board and a majority of the board shall constitute a quorum for the transaction of all business. Any person to whom registration is denied shall have the right of appeal, without giving security for costs, within thirty days after such denial, by filing a petition in the Circuit Court or court of like jurisdiction held for the county in which he seeks to register, to have his qualifications as an elector determined. Upon the filing of the petition the clerk of the court shall give notice thereof to any Solicitor authorized to represent the State in said county, whose duty it shall be to appear and defend against the petition on behalf of the State. Upon such trial the court shall charge the jury only as to what constitutes the qualifications that entitle the applicant to become an elector at the time he applied for registration, and the jury shall determine the weight and effect of the evidence and return a verdict. From the judgment rendered an appeal will lie to the Supreme Court in favor of the petitioner, to be taken within thirty days. Final judgment in favor of the petitioner shall entitle him to registration as of the date of his application to the registrars.

Seventh—The Secretary of State shall, at the expense of the State, have prepared and shall furnish to the registrars and judges of probate of the several counties a sufficient number of registration books and of blank forms of the oath, certificates of registration and notices required to be given by the registrars. The cost of the publication in newspapers of the notices required to be given by the registrars shall be paid by the State, the bills therefor to be rendered to the Secretary of State and approved by him.

Eighth—Any person who registers for another, or who registers more than once, and any registrar who enters the name of any person on the list of registered voters, without such person having made

application in person under oath on a form provided for that purpose, or who knowingly registers any person more than once, or who knowingly enters a name upon the registration list as the name of a voter, without any one of that name applying to register, shall be guilty of a felony, and upon conviction thereof shall be imprisoned in the penitentiary for not less than one nor more than five years.

187. The Board of Registrars in each county shall, on or before the first day of February, nineteen hundred and three, or as soon thereafter as practicable, file in the office of the Judge of Probate in their county, a complete list, sworn to by them, of all persons registered in their county, showing the age of such persons so registered, with the precinct or ward in which each of such persons resides set opposite the name of such person, and shall also file a like list in the office of the Secretary of State. The Judge of Probate shall, on or before the first day of March, nineteen hundred and three, or as soon thereafter as practicable, cause to be made from such list in duplicate, in the books furnished by the Secretary of State, an alphabetical list by precincts of the persons shown by the list of registrars to have been registered in the county, and shall file one of such alphabetical lists in the office of the Secretary of State; for which services by the Judges of Probate compensation shall be provided by the Legislature. The Judges of Probate shall keep both the original list filed by the registrars and the alphabetical list made therefrom as records in the office of the Judge of Probate of the county. Unless he shall become disqualified under the provisions of this article, any one who shall register prior to the first day of January, nineteen hundred and three, shall remain an elector during life, and shall not be required to register again unless he changes his residence, in which event he may register again on production of his certificate. The certificate of the registrars or of the Judge of Probate or of the Secretary of State shall be sufficient evidence to establish the fact of such life registration. Such certificate shall be issued free of charge to the elector, and the Legislature shall provide by law for the renewal of such certificate when lost, mutilated or destroyed.

188. From and after the first day of January, nineteen hundred and three, any applicant for registration may be required to state under oath, to be administered by the registrar or by any person authorized by law to administer oaths, where he lived during the five years next preceding the time at which he applies to register, and the name or names by which he was known during that period, and the name of his employer or employers, if any, during such period. Any applicant for registration who refuses to state such facts, or any of them, shall not be entitled to register, and any person so offering to register, who wilfully makes a false statement in regard to such matters, or any of them, shall be guilty of perjury, and upon conviction thereof shall be imprisoned in the penitentiary for not less than one nor more than five years.

189. In the trial of any contested election, and in proceedings to investigate any election, and in criminal prosecutions for violations of the election laws, no person other than a defendant in such criminal prosecutions shall be allowed to withhold his testimony on the ground

that he may criminate himself or subject himself to public infamy; but such person shall not be prosecuted for any offense arising out of the transactions concerning which he testified, but may be prosecuted for perjury committed on such examination.

190. The Legislature shall pass laws not inconsistent with this Constitution to regulate and govern elections, and all such laws shall be uniform throughout the State; and shall provide by law for the manner of holding elections and of ascertaining the result of the same, and shall provide general registration laws not inconsistent with the provisions of this article, for the registration of all qualified electors from and after the first day of January, nineteen hundred and three. The Legislature shall also make provision by law, not inconsistent with this article, for the regulation of primary elections, and for punishing frauds at the same, but shall not make primary elections compulsory. The Legislature shall by law provide for purging the registration list of the names of those who die, become insane, or convicted of crime, or otherwise disqualified as electors under the provisions of this Constitution, and of any names which may have been fraudulently entered on such list by the registrars; provided, that a trial by jury may be had on the demand of any person whose name is proposed to be stricken from the list.

191. It shall be the duty of the Legislature to pass adequate laws giving protection against the evils arising from the use of intoxicating liquors at all elections.

192. Electors shall in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections, or while going to or returning therefrom.

193. Returns of elections for members of the Legislature and for all civil officers who are to be commissioned by the Governor, except the Attorney General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education, and Commissioner of Agriculture and Industries, shall be made to the Secretary of State.

194. The poll tax mentioned in this article shall be one dollar and fifty cents upon each male inhabitant of the State, over the age of twenty-one years, and under the age of forty-five years, who would not now be exempt by law; but the Legislature is authorized to increase the maximum age fixed in this section to not more than sixty years. Such poll tax shall become due and payable on the first day of October in each year, and become delinquent on the first day of the next succeeding February, but no legal process, nor any fee or commission shall be allowed for the collection thereof. The Tax Collector shall make returns of poll tax collections separate from other collections.

195. Any person who shall pay the poll tax of another, or advance him money for that purpose in order to influence his vote, shall be guilty of bribery, and upon conviction therefor shall be imprisoned in the penitentiary for not less than one nor more than five years.

196. If any section or subdivision of this article shall for any reason be, or be held by any court of competent jurisdiction and of final resort to be, invalid, inoperative or void, the residue of this article shall not be thereby invalidated or affected.

Article IX

REPRESENTATION

197. The whole number of Senators shall be not less than one-fourth, or more than one-third of the whole number of Representatives.

198. The House of Representatives shall consist of not more than one hundred and five members unless new counties shall be created, in which event each new county shall be entitled to one Representative. The members of the House of Representatives shall be apportioned by the Legislature among the several counties of the State, according to the number of inhabitants in them respectively, as ascertained by the decennial census of the United States, which apportionment when made shall not be subject to alteration until the next session of the Legislature after the next decennial census of the United States shall have been taken.

199. It shall be the duty of the Legislature at its first session after the taking of the decennial census of the United States in the year nineteen hundred and ten, and after each subsequent decennial census, to fix by law the number of Representatives, and apportion them among the several counties of the State, according to the number of inhabitants in them respectively; provided, that each county shall be entitled to at least one Representative.

200. It shall be the duty of the Legislature at its first session after taking the decennial census of the United States in the year nineteen hundred and ten, and after each subsequent decennial census, to fix by law the number of Senators and to divide the State into as many Senatorial districts as there are Senators, which districts shall be as nearly equal to each other in the number of inhabitants as may be, and each shall be entitled to one Senator, and no more; and such districts when formed, shall not be changed until the next apportioning session of the Legislature, after the next decennial census of the United States shall have been taken; provided, that counties created after the next preceding apportioning session of the Legislature may be attached to Senatorial districts. No county shall be divided between two districts, and no district shall be made up of two or more counties not contiguous to each other.

201. Should any decennial census of the United States not be taken, or if when taken, the same, as to this State, be not full and satisfactory, the Legislature shall have power at its first session after the time shall have elapsed for the taking of said census, to provide for an enumeration of all the inhabitants of this State, upon which it shall be the duty of the Legislature to make the apportionment of Representatives and Senators as provided for in this article.

202. Until the Legislature shall make an apportionment of Representatives among the several counties, as provided in the preceding section, the counties of Autauga, Baldwin, Bibb, Blount, Cherokee, Chilton, Choctaw, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshow, Cullman, Dale, DeKalb, Escambia, Fayette, Franklin, Geneva, Greene, Lamar, Lawrence, Limestone, Macon, Marion, Marshall, Monroe, Pickens, Randolph, St. Clair, Shelby, Washington, and Winston, shall each have one Representative; the counties of Barbour, Bullock, Butler, Calhoun, Chambers, Clarke,

Elmore, Etowah, Hale, Henry, Jackson, Lauderdale, Lee, Lowndes, Madison, Marengo, Morgan, Perry, Pike, Russell, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, and Wilcox, shall each have two Representatives; the counties of Dallas and Mobile shall each have three Representatives; the county of Montgomery shall have four Representatives; and the county of Jefferson shall have seven Representatives.

203. Until the Legislature shall divide the State into Senatorial districts, as herein provided, the Senatorial districts shall be as follows:

First district, Lauderdale and Limestone; Second district, Lawrence and Morgan; Third district, Blount, Cullman, and Winston; Fourth district, Madison; Fifth district, Jackson and Marshall; Sixth district, Etowah and St. Clair; Seventh district, Calhoun; Eighth district, Talladega; Ninth district, Chambers and Randolph; Tenth district, Tallapoosa and Elmore; Eleventh district, Tuscaloosa; Twelfth district, Fayette, Lamar and Walker; Thirteenth district, Jefferson; Fourteenth district, Pickens and Sumter; Fifteenth district, Autauga, Chilton and Shelby; Sixteenth district, Lowndes; Seventeenth district, Butler, Conecuh and Covington; Eighteenth district, Bibb and Perry; Nineteenth district, Choctaw, Clarke, and Washington; Twentieth district, Marengo; Twenty-first district, Baldwin, Escambia and Monroe; Twenty-second district, Wilcox; Twenty-third district, Dale and Geneva; Twenty-fourth district, Barbour; Twenty-fifth district, Coffee, Crenshaw and Pike; Twenty-sixth district, Bullock and Macon; Twenty-seventh district, Lee and Russell; Twenty-eighth district, Montgomery; Twenty-nineth district, Cherokee and DeKalb; Thirtieth district, Dallas; Thirty-first district, Colbert, Franklin and Marion; Thirty-second district, Greene and Hale; Thirty-third district, Mobile; Thirty-fourth district, Cleburne, Clay and Coosa; Thirty-fifth district, Henry.

Article X

EXEMPTIONS

204. The personal property of any resident of this State, to the value of one thousand dollars, to be selected by such resident, shall be exempt from sale on execution or other process of any court, issued for the collection of any debt contracted since the thirteenth day of July, eighteeen hundred and sixty-eight, or after the ratification of this Constitution.

205. Every homestead, not exceeding eighty acres, and the dwellings and appurtenances thereon, to be selected by the owner thereof, and not in any city, town or village; or in lieu thereof, at the option of the owner, any lot in a city, town or village, with the dwelling and appurtenances thereon, owned and occupied by any resident of this State, and not exceeding the value of two thousand dollars, shall be exempt from sale on execution, or any other process from a court; for any debt contracted since the thirteenth day of July, eighteen hundred and sixty-eight, or after the ratification of this Constitution. Such exemption, however, shall not extend to any mortgage lawfully obtained, but such mortgage or other alienation of said

homestead by the owner thereof, if a married man, shall not be valid without the voluntary signature and assent of the wife to the same.

206. The homestead of a family, after the death of the owner thereof, shall be exempt from the payment of any debts contracted since the thirteenth day of July, eighteen hundred and sixty-eight, or after the ratification of this Constitution, in all cases, during the minority of the children.

207. The provisions of Sections 204 and 205 of this Constitution shall not be so construed as to prevent a laborers' lien for work done and performed for the person claiming such exemption, or a mechanics' lien for work done on the premises.

208. If the owner of the homestead die, leaving a widow, but no children, such homestead shall be exempt, and the rents and profits thereof shall inure to her benefit.

209. The real and personal property of any female in this State, acquired before marriage, and all property, real and personal, to which she may afterwards be entitled by gift, grant, inheritance or devise, shall be and remain the separate estate and property of such female, and shall not be liable for any debts, obligations or engagements of her husband, and may be devised or bequeathed by her, the same as if she were a feme sole.

210. The right of exemption hereinbefore secured may be waived by an instrument in writing, and when such waiver relates to realty, the instrument must be signed by both the husband and wife, and attested by one witness.

Article XI

TAXATION

211. All taxes levied on property in this State shall be assessed in exact proportion to the value of such property, but no tax shall be assessed upon any debt for rent or hire of real or personal property, while owned by the landlord or hirer during the current year of such rental or hire, if such real or personal property be assessed at its full value.

212. The power to levy taxes shall not be delegated to individuals, or private corporations or associations.

213. After the ratification of this Constitution, no new debt shall be created against or incurred by this State, or its authority, except to repel invasion or suppress insurrection, and then only by a concurrence of two-thirds of the members of each House of the Legislature, and the vote shall be taken by yeas and nays, and entered on the Journals; and any act creating or incurring any new debt against this State, except as herein provided for, shall be absolutely void; provided, the Governor may be authorized to negotiate temporary loans, never to exceed three hundred thousand dollars, to meet the deficiencies in the treasury, and until the same is paid no new loan shall be negotiated; provided further, that this section shall not be so construed as to prevent the issuance of bonds for the purpose of refunding the existing bonded indebtedness of the State.

214. The Legislature shall not have the power to levy, in any one year, a greater rate of taxation than sixty-five one hundredths of one per centum on the value of the taxable property within this State.

215. No county in this State shall be authorized to levy a greater rate of taxation, in any one year, on the value of the taxable property therein, than one-half of one per centum; provided, that to pay debts existing on the sixth day of December, eighteen hundred and seventy-five, an additional rate of one-fourth of one per centum may be levied and collected, which shall be appropriated exclusively to the payment of such debts and the interest thereon; provided further, that to pay any debt or liability now existing against any county, incurred for the erection, construction or maintenance of the necessary public buildings or bridges, or that may hereafter be created for the erection of necessary public buildings, bridges or roads, any county may levy and collect such special taxes, not to exceed one-fourth of one per centum, as may have been or may hereafter be authorized by law, which taxes, so levied and collected, shall be applied exclusively to the purposes for which the same were so levied and collected.

216. No city, town, village, or other municipal corporation, other than as provided in this article, shall levy or collect a higher rate of taxation in any one year on the property situated therein than one-half of one per centum of the value of such property as assessed for State taxation during the preceding year; provided, that for the purpose of paying debts existing on the sixth day of December, eighteen hundred and seventy-five, and the interest thereon, a tax of one per centum may be levied and collected, to be applied exclusively to the payment of such indebtedness; and provided further, that this section shall not apply to the city of Mobile, which city may from and after the ratification of this Constitution levy a tax not to exceed the rate of three-fourths of one per centum to pay the expenses of the city government, and may also levy a tax not to exceed three-fourths of one per centum to pay the debt existing on the sixth day of December, eighteen hundred and seventy-five, with interest thereon, or any renewal of such debt; and provided further, that this section shall not apply to the cities of Birmingham, Huntsville and Bessemer, and the town of Andalusia, which cities and town may levy and collect a tax not to exceed one-half of one per centum, in addition to the tax of one-half of one per centum as hereinbefore allowed to be levied and collected, such special tax to be applied exclusively to the payment of interest on bonds of said cities of Birmingham, Huntsville and Bessemer and town of Andalusia, respectively, heretofore issued in pursuance of law, or now authorized by law to be issued, and for a sinking fund to pay off said bonds at maturity thereof; and provided further, that this section shall not apply to the city of Montgomery, which city shall have the right to levy and collect a tax of not exceeding one-half of one per centum per annum upon the value of taxable property therein, as fixed for State taxation, for general purposes, and an additional tax of not exceeding three-fourths of one per centum per annum upon the value of the property therein, as fixed for State taxation, to be devoted exclusively to the payment of its public debt, interest thereon, and renewals thereof, and to the maintenance of its public schools, and public conveniences; and provided further, that this section shall not apply to Troy, Attalla, Gadsden, Woodlawn, Brewton, Pratt City, Ensley, Wylam, and Avondale, which cities and towns may from and after the ratification of this Constitution, levy and collect

an additional tax of not exceeding one-half of one per centum; and provided further, that this section shall not apply to the cities of Decatur, New Decatur, and Cullman, which cities may from and after the ratification of this Constitution, levy and collect an additional tax of not exceeding three-tenths of one per centum per annum; such special tax of said city of Decatur to be applied exclusively for the public schools, public school buildings, and public improvements; and such special tax of New Decatur and Cullman to be applied exclusively for educational purposes, and to be expended under their respective boards of Public School Trustees; but this additional tax shall not be levied by Troy, Attalla, Gadsden, Woodlawn, Brewton, Pratt City, Ensley, Wylam, Avondale, Decatur, New Decatur, or Cullman unless authorized by a majority vote of the qualified electors voting at a special election held for the purpose of ascertaining whether or not said tax shall be levied; and provided further, that the purposes for which such special tax is sought to be levied shall be stated in such election call, and, if authorized, the revenue derived from such special tax shall be used for no other purpose than that stated; and provided further, that the additional tax authorized to be levied by the city of Troy, when so levied and collected, shall be used exclusively in the payment of the bonds and interest coupons thereon, hereafter issued in the adjustment of the present bonded indebtedness of said city; and provided further, that the additional tax authorized to be levied and collected by the city of Attalla shall, when so levied and collected, be used exclusively in the payment of bonds to the amount of not exceeding twenty-five thousand dollars, and the interest coupons thereon, hereafter to be issued in the adjustment of the present indebtedness of said city; provided further, that the governing boards of said cities, which are authorized to levy an additional tax, after the holding of an election as aforesaid, are hereby authorized to provide by ordinance the necessary machinery for the holding of said election and declaring the result thereof.

217. The property of private corporations, associations and individuals of this State shall forever be taxed at the same rate; provided, this section shall not apply to institutions devoted exclusively to religious, educational or charitable purposes.

218. The Legislature shall not have the power to require counties or other municipal corporations to pay any charges which are now payable out of the State treasury.

219. The Legislature may levy a tax of not more than two and one-half per centum of the value of all estates, real and personal, money, public and private securities of every kind, in this State passing from any person who may die seized and possessed thereof, or of any part of such estate, money or securities, or interest therein transferred by the intestate laws of this State or by will, deed, grant, bargain, sale or gift, made or intended to take effect in possession after death of the grantor, devisor, or donor, to any person or persons, bodies politic or corporate, in trust or otherwise, other than to or for the use of the father, mother, husband, wife, brothers, sisters, children or lineal descendants of the grantor, devisor, donor or intestate.

Article XII

CORPORATIONS

MUNICIPAL CORPORATIONS

220. No person, firm, association or corporation shall be authorized or permitted to use the streets, avenues, alleys or public places of any city, town or village for the construction or operation of any public utility or private enterprise, without first obtaining the consent of the proper authorities of such city, town or village.

221. The Legislature shall not enact any law which will permit any person, firm, corporation or association to pay a privilege, license or other tax to the State of Alabama, and relieve him or it from the payment of all other privilege and license taxes in the State.

222. The Legislature, after the ratification of this Constitution, shall have authority to pass general laws authorizing the counties, cities, towns, villages, districts or other political subdivisions of counties to issue bonds, but no bonds shall be issued under authority of a general law unless such issue of bonds be first authorized by a majority vote by ballot of the qualified voters of such county, city, town, village, district, or other political subdivision of a county, voting upon such proposition. The ballot used at such election shall contain the words "For ——— bond issue," and "Against ——— bond issue," (the character of the bond to be shown in the blank space,) and the voter shall indicate his choice by placing a cross mark before or after the one or the other. This section shall not apply to the renewal, refunding or reissue of bonds lawfully issued, nor to the issuance of bonds in cases where the same have been authorized by laws enacted prior to the ratification of this Constitution, nor shall this section apply to obligations incurred or bonds to be issued to procure means to pay for street and sidewalk improvements or sanitary or storm water sewers, the cost of which is to be assessed, in whole or in part, against the property abutting said improvements or drained by such sanitary or storm water sewers.

223. No city, town or other municipality shall make any assessment for the cost of sidewalks or street paving, or for the cost of the construction of any sewers against property abutting in such street or sidewalk so paved, or drained by such sewers, in excess of the increased value of such property by reason of the special benefits derived from such improvements.

224. No county shall become indebted in an amount including present indebtedness, greater than three and one-half per centum of the assessed value of the property therein; provided, this limitation shall not affect any existing indebtedness in excess of such three and one-half per centum, which has already been created or authorized by existing law to be created; provided, that any county which has already incurred a debt exceeding three and one-half per centum of the assessed value of the property therein, shall be authorized to incur an indebtedness of one and a half per centum of the assessed value of such property in addition to the debt already existing. Nothing herein contained shall prevent any county from issuing bonds, or other obligations, to fund or refund any indebtedness now existing or authorized by existing laws to be created.

225. No city, town or other municipal corporation having a population of less than six thousand, except as hereinafter provided, shall become indebted in an amount, including present indebtedness, exceeding five per centum of the assessed value of the property therein, except for the construction or purchase of water works, gas or electric lighting plants, or sewerage, or for the improvement of streets, for which purposes an additional indebtedness not exceeding three per centum may be created; provided, this limitation shall not affect any debt now authorized by law to be created, nor any temporary loans to be paid within one year, made in anticipation of the collection of taxes, not exceeding one-fourth of the annual revenues of such city or town. All towns and cities having a population of six thousand or more, also Gadsden, Ensley, Decatur, and New Decatur, are hereby authorized to become indebted in an amount, including present indebtedness, not exceeding seven per centum of the assessed valuation of the property therein, provided that there shall not be included in the limitation of the indebtedness of such last described cities and towns the following classes of indebtedness, to-wit: Temporary loans, to be paid within one year, made in anticipation of the collection of taxes, and not exceeding one-fourth of the general revenues, bonds or other obligations already issued, or which may hereafter be issued for the purpose of acquiring, providing or constructing school houses, water works and sewers; and obligations incurred and bonds issued for street or sidewalk improvements, where the cost of the same, in whole or in part, is to be assessed against the property abutting said improvements; provided, that the proceeds of all obligations issued as herein provided, in excess of said seven per centum shall not be used for any purpose other than that for which said obligations were issued. Nothing contained in this article shall prevent the funding or refunding of existing indebtedness. This section shall not apply to the cities of Sheffield and Tuscumbia.

226. No city, town or village, whose present indebtedness exceeds the limitation imposed by this Constitution, shall be allowed to become indebted in any further amount, except as otherwise provided in this Constitution, until such indebtedness shall be reduced within such limit; provided, however, that nothing herein contained shall prevent any municipality, except the city of Gadsden, from issuing bonds already authorized by law; provided further, that this section shall not apply to the cities of Sheffield and Tuscumbia.

227. Any person, firm, association or corporation who may construct or operate any public utility along or across the public streets of any city, town or village, under any privilege or franchise permitting such construction or operation, shall be liable to abutting proprietors for the actual damage done to the abutting property on account of such construction or operation.

228. No city or town having a population of more than six thousand shall have authority to grant to any person, firm, corporation or association the right to use its streets, avenues, alleys, or public places for the construction or operation of water works, gas works, telephone or telegraph line, electric light or power plants, steam or other heating plants, street railroads, or any other public utility, except railroads other than street railroads for a longer period than thirty years.

PRIVATE CORPORATIONS

229. The Legislature shall pass no special act conferring corporate powers, but it shall pass general laws under which corporations may be organized and corporate powers obtained, subject, nevertheless, to repeal at the will of the Legislature; and shall pass general laws under which charters may be altered or amended. The Legislature shall, by general law, provide for the payment to the State of Alabama of a franchise tax by corporations organized under the laws of this State, which shall be in proportion to the amount of capital stock; but strictly benevolent, educational or religious corporations shall not be required to pay such a tax. The charter of any corporation shall be subject to amendment, alteration or repeal under general laws.

230. All existing charters, under which a bona fide organization shall not have taken place and business commenced in good faith within twelve months from the time of the ratification of this Constitution, shall thereafter have no validity.

231. The Legislature shall not remit the forfeiture of the charter of any corporation now existing, or alter or amend the same, nor pass any general or special law for the benefit of such corporation, other than in execution of a trust created by law or by contract, except upon condition that such corporation shall thereafter hold its charter subject to the provisions of this Constitution.

232. No foreign corporation shall do any business in this State without having at least one known place of business and an authorized agent or agents therein, and without filing with the Secretary of State a certified copy of its articles of incorporation or association. Such corporation may be sued in any county where it does business, by service of process upon an agent anywhere in the State. The Legislature shall, by general law, provide for the payment to the State of Alabama of a franchise tax by such corporation, but such franchise tax shall be based on the actual amount of capital employed in this State. Strictly benevolent, educational or religious corporations shall not be required to pay such a tax.

233. No corporation shall engage in any business other than that expressly authorized in its charter or articles of incorporation.

234. No corporation shall issue stock or bonds except for money, labor done or property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock and bonded indebtedness of corporations shall not be increased except in pursuance of general laws, nor without the consent of the persons holding the larger amount in value of stock, first obtained at a meeting to be held after thirty days' notice, given in pursuance of law.

235. Municipal and other corporations and individuals invested with the privilege of taking property for public use, shall make just compensation, to be ascertained as may be provided by law, for the property taken, injured or destroyed by the construction or enlargement of its works, highways or improvements, which compensation shall be paid before such taking, injury or destruction. The Legislature is hereby prohibited from denying the right of appeal from any preliminary assessment of damages against any such corporations or individuals made by viewers or otherwise, but such appeal

shall not deprive those who have obtained the judgment of condemnation from a right of entry, provided the amount of damages assessed shall have been paid in the court in money, and a bond shall have been given in not less than double the amount of the damages assessed, with good and sufficient sureties, to pay such damages as the property owner may sustain; and the amount of damages in all cases of appeals shall, on the demand of either party, be determined by a jury according to law.

236. Dues from private corporations shall be secured by such means as may be prescribed by law; but in no case shall any stockholder be individually liable otherwise than for the unpaid stock owned by him or her.

237. No corporation shall issue preferred stock without the consent of the owners of two-thirds of the stock of said corporation.

238. The Legislature shall have the power to alter, amend or revoke any charter of incorporation now existing and revocable at the ratification of this Constitution, or any that may be hereafter created, whenever, in its opinion, such charter may be injurious to the citizens of this State, in such manner, however, that no injustice shall be done to the stockholders.

239. Any association or corporation organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph and telephone within this State, and connect the same with other lines; and the Legislature shall, by general law of uniform operation, provide reasonable regulations to give full effect to this section. No telegraph or telephone company shall consolidate with or hold a controlling interest in the stock or bonds of any other telegraph or telephone company owning a complete line, or acquire, by purchase or otherwise, any other competing line of telegraph or telephone.

240. All corporations shall have the right to sue, and shall be subject to be sued, in all courts in like cases as natural persons.

241. The term "corporation," as used in this article, shall be construed to include all joint stock companies, and all associations having any of the powers or privileges of corporations not possessed by individuals or partnerships.

RAILROADS AND CANALS

242. All railroads and canals, not constructed and used exclusively for private purposes, shall be public highways, and all railroads and canal companies shall be common carriers. Any association or corporation organized for the purpose shall have the right to construct and operate a railway between any points in this State, and connect at the State line with railroads of other States. Every railroad company shall have the right with its road to intersect, connect with, or cross any other railroad, and each shall receive and transport the freight, passengers and cars, loaded or empty, of the others, without delay or discrimination.

243. The power and authority of regulating railroad freight and passenger tariffs, the locating and building of passenger and freight depots, correcting abuses, preventing unjust discrimination and extortion and requiring reasonable and just rates of freight and passenger

tariffs, are hereby conferred upon the Legislature, whose duty it shall be to pass laws from time to time regulating freight and passenger tariffs, to prohibit unjust discrimination on the various railroads, canals and rivers of the State, and to prohibit the charging of other than just and reasonable rates, and enforce the same by adequate penalties.

244. No railroad or other transportation company or corporation shall grant free passes or sell tickets or passes at a discount, other than as sold to the public generally, to any member of the Legislature, or to any officer exercising judicial functions under the laws of this State; and any such member or officer receiving such pass or ticket for himself or procuring the same for another, shall be guilty of a misdemeanor, and upon conviction shall be fined not exceeding five hundred dollars and, at the discretion of the court trying the case, in addition to such fine, may be imprisoned for a term not exceeding six months, and upon conviction, shall be subject to impeachment and removal from office. The courts having jurisdiction shall give this law specially in charge to the Grand Juries, and when the evidence is sufficient to authorize an indictment, the Grand Jury must present a true bill. The Circuit Court or any court of like jurisdiction in any county into or through which such member or officer is transported by the use of such prohibited pass or ticket, shall have jurisdiction of the case, provided, only one prosecution shall be had for the same offense; and provided further, that the trial and judgment for one offense shall not bar a prosecution for another offense, when the same pass or ticket is used; and provided further, that nothing herein shall prevent a member of the Legislature who is a bona fide employe of a railroad or other transportation company or corporation at the time of his election, from accepting or procuring for himself or another, not a member of the Legislature, or officer exercising judicial functions, a free pass over the railroads or other transportation company or corporation by which he is employed.

245. No railroad company shall give or pay any rebate, or a bonus in the nature thereof, directly or indirectly, or do any act to mislead or deceive the public as to the real rates charged or received for freights or passage; and any such payments shall be illegal and void, and these prohibitions shall be enforced by suitable penalties.

246. No railroad, canal or transportation company in existence at the time of the ratification of this Constitution shall have the benefit of any future legislation by general or special laws, other than in execution of a trust created by law or by contract, except on condition of complete acceptance of all the provisions of this article.

Article XIII

BANKS AND BANKING

247. The Legislature shall not have the power to establish or incorporate any bank or banking company, or moneyed institution, for the purpose of issuing bills of credit, or bills payable to order or bearer, except under the conditions prescribed in this Constitution.

248. No bank shall be established otherwise than under a general banking law, nor other than upon a specie basis; provided, that any

bank may be established with authority to issue bills to circulate as money in an amount equal to the face value of bonds of the United States, or of this State, convertible into specie at their face value, which shall, before such bank is authorized to issue bills for circulation, be deposited with the State Treasurer, or other depository prescribed by law, in an amount equal to the aggregate of such proposed issue, with power in such treasurer or depository to dispose of any or all of such bonds for a sufficient amount of specie to redeem the circulating notes of such bank at any time and without delay, should such bank suspend specie payment or fail to redeem its notes on demand.

249. All bills or notes issued as money shall be at all times redeemable in gold or silver, and no law shall be passed sanctioning, directly or indirectly, the suspension by any bank or banking company of specie payment.

250. Holders of bank notes, and depositors who have not stipulated for interest, shall, for such notes and deposits, be entitled, in case of insolvency, to preference of payment over all other creditors; provided, this section shall apply to all banks, whether incorporated or not.

251. Every bank or banking company shall be required to cease all banking operations within twenty years from the time of its organization, unless the time be extended by law, and promptly thereafter close its business; but after it has closed its business it shall have corporate capacity to sue and shall be liable to suits until its affairs and liabilities are fully closed.

252. No bank shall receive, directly or indirectly, a greater rate of interest than shall be allowed by law to individuals for lending money.

253. Neither the State nor any political subdivision thereof shall be a stockholder in any bank, nor shall the credit of the State or any political subdivision thereof ever be given or lent to any banking company, association or corporation.

254. The Legislature shall by appropriate laws provide for the examination, by some public officer, of all banks and banking institutions and trust companies engaged in banking business in this State; and each of such banks and banking companies or institutions shall, through its president or such other officer as the Legislature may designate, make a report under oath of its resources and liabilities at least twice a year.

255. The provisions of this article shall apply to all banks except National banks, and to all trust companies and individuals doing a banking business, whether incorporated or not.

Article XIV

EDUCATION

256. The Legislature shall establish, organize and maintain a liberal system of public schools throughout the State for the benefit of the children thereof between the ages of seven and twenty-one years. The public school fund shall be apportioned to the several counties in proportion to the number of school children of school age therein, and

shall be so apportioned to the schools in the districts or townships in the county as to provide, as nearly as practicable, school terms of equal duration in such school districts or townships. Separate schools shall be provided for white and colored children, and no child of either race shall be permitted to attend a school of the other race.

257. The principal of all funds arising from the sale or other disposition of lands or other property, which has been or may hereafter be granted or entrusted to this State or given by the United States for educational purposes shall be preserved inviolate and undiminished; and the income arising therefrom shall be faithfully applied to the specific object of the original grants or appropriations.

258. All lands or other property given by individuals, or appropriated by the State for educational purposes, and all estates of deceased persons who die without leaving a will or heir shall be faithfully applied to the maintenance of the public schools.

259. All poll taxes collected in this State shall be applied to the support of the public schools in the respective counties where collected.

260. The income arising from the Sixteenth Section trust fund, the surplus revenue fund, until it is called for by the United States government, and the funds enumerated in Sections 257 and 258 of this Constitution, together with a special annual tax of thirty cents on each one hundred dollars of taxable property in this State, which the Legislature shall levy, shall be applied to the support and maintenance of the public schools, and it shall be the duty of the Legislature to increase the public school fund from time to time, as the necessity therefor and the condition of the treasury and the resources of the State may justify; provided, that nothing herein contained shall be so construed as to authorize the Legislature to levy in any one year a greater rate of State taxation for all purposes, including schools, than sixty-five cents on each one hundred dollars worth of taxable property; and provided further, that nothing herein contained shall prevent the Legislature from first providing for the payment of the bonded indebtedness of the State and interest thereon out of all the revenues of the State.

261. Not more than four per cent. of all moneys raised, or which may hereafter be appropriated for the support of public schools, shall be used or expended otherwise than for the payment of teachers employed in such schools; provided, that the Legislature may, by a vote of two-thirds of each House, suspend the operation of this section.

262. The supervision of the public schools shall be vested in a Superintendent of Education, whose powers, duties and compensation shall be fixed by law.

263. No money raised for the support of the public schools, shall be appropriated to or used for the support of any sectarian or denominational school.

264. The State University shall be under the management and control of a board of trustees which shall consist of two members from the Congressional district in which the University is located, one from each of the other Congressional districts in the State, the Superintendent of Education and the Governor who shall be ex-officio president of the board. The members of the Board of Trustees as now

constituted shall hold office until their respective terms expire under existing law, and until their successors shall be elected and confirmed as hereinafter required. Successors to those trustees whose terms expire in nineteen hundred and two shall hold office until nineteen hundred and seven; successors to those trustees whose terms expire in nineteen hundred and four shall hold office until nineteen hundred and eleven; successors to those trustees whose terms expire in nineteen hundred and six shall hold office until nineteen hundred and fifteen; and thereafter their successors shall hold office for a term of twelve years. When the term of any member of such board shall expire, the remaining members of the board shall by secret ballot elect his successor; provided, that any trustee so elected shall hold office from the date of his election until his confirmation or rejection by the Senate, and, if confirmed, until the expiration of the term for which he was elected, and until his successor is elected. At every meeting of the Legislature the Superintendent of Education shall certify to the Senate the names of all who have been so elected since the last session of the Legislature, and the Senate shall confirm or reject them, as it shall determine is for the best interest of the University. If it reject the names of any members, it shall thereupon elect trustees in the stead of those rejected. In case of a vacancy on said board by death or resignation of a member, or from any cause other than the expiration of his term of office, the board shall elect his successor who shall hold office until the next session of the Legislature. No trustee shall receive any pay or emolument other than his actual expenses incurred in the discharge of his duties as such.

265. After the ratification of this Constitution there shall be paid out of the treasury of this State, at the time and in the manner provided by law, the sum of not less than thirty-six thousand dollars per annum as interest on the funds of the University of Alabama, heretofore covered into the treasury, for the maintenance and support of said institution; provided, that the Legislature shall have the power at any time they deem proper for the best interest of said University to abolish the military system at said institution, or reduce the said system to a department of instruction, and that such action on the part of the Legislature shall not cause any diminution of the amount of the annual interest payable out of the treasury for the support and maintenance of said University.

266. The Alabama Polytechnic Institute, formerly called the Agricultural and Mechanical College, shall be under the management and control of a Board of Trustees, which shall consist of two members from the Congressional district in which the institute is located, and one from each of the other Congressional districts in the State, the State Superintendent of Education, and the Governor, who shall be ex-officio president of the board. The trustees shall be appointed by the Governor, by and with the advice and consent of the Senate, and shall hold office for a term of twelve years, and until their successors shall be appointed and qualified. The board shall be divided into three classes, as nearly equal as may be, so that one-third may be chosen quadriennially. Vacancies occurring in the office of trustees from death or resignation, and the vacancies regularly occurring in the year nineteen hundred and five, shall be filled by the Governor, and such appointee shall hold office until the next meeting of the Leg-

islature. Successors to those trustees whose terms expire in nineteen hundred and three shall hold office until nineteen hundred and eleven; successors to those whose terms of office expire in nineteen hundred and five shall hold office until nineteen hundred and fifteen; and successors to those whose terms of office expire in nineteen hundred and seven shall hold office until nineteen hundred and nineteen. No trustee shall receive any pay or emolument other than his actual expenses incurred in the discharge of his duties as such

267. The Legislature shall not have power to change the location of the State University, or the Alabama Polytechnic Institute, or the Alabama school for the Deaf and Blind, or the Alabama Girls' Industrial school, as now established by law, except upon a vote of two-thirds of the Legislature taken by yeas and nays and entered upon the Journals.

268. The Legislature shall provide for taking a school census by townships and districts throughout the State not oftener than once in two years, and shall provide for the punishment of all persons or officers making false or fraudulent enumerations and returns; provided, the State Superintendent of Education may order and supervise the taking of a new census in any township, district or county, whenever he may have reasonable cause to believe that false or fraudulent returns have been made.

269. The several counties in this State shall have power to levy and collect a special tax not exceeding ten cents on each one hundred dollars of taxable property in such counties, for the support of public schools; provided, that the rate of such tax, the time it is to continue, and the purpose thereof, shall have been first submitted to a vote of the qualified electors of the county, and voted for by three-fifths of those voting at such election; but the rate of such special tax shall not increase the rate of taxation, State and county combined, in any one year, to more than one dollar and twenty-five cents on each one hundred dollars of taxable property; excluding, however, all special county taxes for public buildings, roads, bridges and the payment of debts existing at the ratification of the Constitution of eighteen hundred and seventy-five. The funds arising from such special school tax shall be so apportioned and paid through the proper school officials to the several schools in the townships and districts in the county that the school terms of the respective schools shall be extended by such supplement as nearly the same length of time as practicable; provided, that this section shall not apply to the cities of Decatur, New Decatur and Cullman.

270. The provisions of this article and of any act of the Legislature passed in pursuance thereof to establish, organize and maintain a system of public schools throughout the State, shall apply to Mobile county only so far as to authorize and require the authorities designated by law to draw the portions of the funds to which said county shall be entitled for school purposes and to make reports to the Superintendent of Education as may be prescribed by law; and all special incomes and powers of taxation as now authorized by law for the benefit of public schools in said county shall remain undisturbed until otherwise provided by the Legislature; provided, that separate schools for each race shall always be maintained by said school authorities.

Article XV

MILITIA

271. The Legislature shall have power to declare who shall constitute the militia of the State, and to provide for organizing, arming and disciplining the same; and the Legislature may provide for the organization of a State and Naval Militia.

272. The Legislature, in providing for the organization, equipment and discipline of the militia, shall conform as nearly as practicable to the regulations for the government of the armies of the United States.

273. Each company and regiment shall elect its own company and regimental officers; but if any company or regiment shall neglect to elect such officers within the time prescribed by law, they may be appointed by the Governor.

274. Volunteer organizations of infantry, cavalry, and artillery and naval militia may be formed in such manner and under such restrictions and with such privileges as may be provided by law.

275. The militia and volunteer forces shall, in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at musters, parades and elections, and in going to and returning from the same.

276. The Governor shall, with the advice and consent of the Senate, appoint all general officers, whose terms of office shall be four years. The Governor, the generals and regimental and battalion commanders shall appoint their own staffs, as may be provided by law.

277. The Legislature shall provide for the safe keeping of the arms, ammunition and accoutrements and military records, banners and relics of the State.

278. The officers and men of the militia and volunteer forces shall not be entitled to or receive any pay, rations or emoluments when not in active service.

Article XVI

OATH OF OFFICE

279. All members of the Legislature, and all officers, executive and judicial, before they enter upon the execution of the duties of their respective offices, shall take the following oath or affirmation:

"I, ——— ———, solemnly swear (or affirm, as the case may be), that I will support the Constitution of the United States, and the Constitution of the State of Alabama, so long as I continue a citizen thereof; and that I will faithfully and honestly discharge the duties of the office upon which I am about to enter, to the best of my ability. So help me God."

The oath may be administered by the presiding officer of either House of the Legislature, or by any officer authorized by law to administer an oath.

Article XVII

MISCELLANEOUS PROVISIONS

280. No person holding an office of profit under the United States, except postmasters, whose annual salaries do not exceed two hundred dollars, shall during his continuance in such office hold any office of profit under this State; nor, unless otherwise provided in this Constitution, shall any person hold two offices of profit at one and the same time under this State, except Justices of the Peace, Constables, Notaries Public and Commissioners of Deeds.

281. The salary, fees or compensation of any officer holding any civil office of profit under this State or any county or municipality thereof, shall not be increased or diminished during the term for which he shall have been elected or appointed.

282. It is made the duty of the Legislature to enact all laws necessary to give effect to the provisions of this Constitution.

283. The act of the General Assembly of Alabama, entitled, "An Act to consolidate and adjust the bonded debt of the State of Alabama," approved February 18th, 1895, and an act amendatory thereof entitled, "An Act to amend Section 6 of an act to consolidate and adjust the bonded debt of the State of Alabama, approved February 18th, 1895," which said last named act was approved February 16th, 1899, are hereby made valid, and both of said acts shall have the full force and effect of law, except insofar as they authorize the redemption before maturity of the bonds authorized by said acts to be issued. The Governor is authorized and empowered to act under the same and to carry out all the provisions thereof; provided, that the bonds authorized to be issued by said acts and issued thereunder may be made payable at any time, not exceeding fifty years from the date thereof, and shall not be redeemable until their maturity.

Article XVIII

MODE OF AMENDING THE CONSTITUTION

284. Amendments may be proposed to this Constitution by the Legislature in the manner following: The proposed amendments shall be read in the House in which they originate on three several days, and if upon the third reading three-fifths of all the members elected to that House shall vote in favor thereof, the proposed amendments shall be sent to the other House, in which they shall likewise be read on three several days, and if upon the third reading three-fifths of all the members elected to that House shall vote in favor of the proposed amendments, the Legislature shall order an election by the qualified electors of the State upon the proposed amendments, to be held either at the general election next succeeding the session of the Legislature at which the amendments are proposed or upon another day appointed by the Legislature not less than three months after the final adjournment of the session of the Legislature at which the amendments were proposed. Notice of such election, together with the proposed amendments, shall be given by proclamation of the

Governor, which shall be published in every county in such manner as the Legislature shall direct, for at least eight successive weeks next preceding the day appointed for such election. On the day so appointed an election shall be held for the vote of the qualified electors of the State upon the proposed amendments. If such election be held on the day of the general election, the officers of such general election shall open a poll for the vote of the qualified electors upon the proposed amendments; if it be held on a day other than that of a general election, officers for such election shall be appointed, and the election shall be held in all things in accordance with the law governing general elections. In all elections upon such proposed amendments, the votes cast thereat shall be canvassed, tabulated and returns thereof be made to the Secretary of State, and counted, in the same manner as in elections for Representatives to the Legislature; and if it shall thereupon appear that a majority of the qualified electors who voted at such election upon the proposed amendments voted in favor of the same, such amendments shall be valid to all intents and purposes as parts of this Constitution. The results of such election shall be made known by proclamation of the Governor. Representation in the Legislature shall be based upon population, and such basis of representation shall not be changed by constitutional amendment.

285. Upon the ballots used at all elections provided for in Section 284 of this Constitution, the substance or subject matter of each proposed amendment shall be so printed that the nature thereof shall be clearly indicated. Following each proposed amendment on the ballot shall be printed the word "Yes" and immediately under that shall be printed the word "No." The choice of the elector shall be indicated by a cross mark made by him or under his direction opposite the word expressing his desire, and no amendment shall be adopted unless it receives the affirmative vote of a majority of all the qualified electors who vote at such election.

286. No convention shall hereafter be held for the purpose of altering or amending the Constitution of this State, unless after the Legislature by a vote of the majority of all the members elected to each House, has passed an act or resolution calling a Convention for such purpose, the question of Convention or No Convention shall be first submitted to a vote of all the qualified electors of the State and approved by a majority of those voting at such election. No act or resolution of the Legislature calling a convention for the purpose of altering or amending the Constitution of this State, shall be repealed, except upon the vote of a majority of all the members elected to each House at the same session at which such act or resolution was passed; provided, nothing herein contained shall be construed as restricting the jurisdiction and power of the convention, when duly assembled in pursuance of this section, to establish such ordinances and to do and perform such things as to the convention may seem necessary or proper for the purpose of altering, revising, or amending the existing Constitution.

287. All votes of the Legislature upon proposed amendments to this Constitution, and upon bills or resolutions calling a Convention for the purpose of altering or amending the Constitution of this State, shall be taken by yeas and nays and entered on the Journals. No act

or resolution of the Legislature passed in accordance with the provisions of this article, proposing amendments to this Constitution, or calling a convention for the purpose of altering or amending the Constitution of this State, shall be submitted for the approval of the Governor, but shall be valid without his approval.

SCHEDULE

In order that no injury or inconvenience may arise from the alterations and amendments made by this Constitution to the existing Constitution of this State, and to carry this Constitution into effect it is hereby ordained and declared:

1. That all laws in force at the ratification of this Constitution and not inconsistent therewith, shall remain in full force until altered or repealed by the Legislature; and all rights, actions, prosecutions, claims and contracts of the State, counties, municipal corporations, individuals, or bodies corporate, not inconsistent with this Constitution, shall continue to be valid as if this Constitution had not been ratified.

2. That all bonds executed by or to any officer of this State, all recognizances, obligations, and all other instruments executed to this State, or to any subdivision or municipality thereof, before the ratification of this Constitution, and all fines, taxes, penalties, and forfeitures due and owing to the State, or any subdivision or municipality thereof, and all writs, suits, prosecutions, claims and causes of action, except as herein otherwise provided, shall continue and remain unaffected by the ratification of this Constitution. All indictments which have been found, or which may hereafter be found, for any crime or offense committed before the ratification of this Constitution shall be proceeded upon in the same manner as if this Constitution had not been ratified.

3. That all the executive and judicial officers and all other officers in this State, who were elected at the elections held in this State on the first Monday in August in the years eighteen hundred and ninety-eight and nineteen hundred, or who have been appointed since that time, and all members of the present General Assembly and all who may be hereafter elected members of the present General Assembly, and all other officers holding office at the time of the ratification of this Constitution, shall, except as otherwise provided in this Constitution, continue in office and exercise the duties thereof until their respective terms shall expire as provided by the Constitution of eighteen hundred and seventy-five or the laws of this State.

4. This Constitution shall be submitted to the qualified electors of this State for ratification or rejection, as authorized and required by an act of the General Assembly of this State, entitled "An Act to provide for holding a convention to revise and amend the Constitution of this State," approved the eleventh day of December, nineteen hundred; and no elector shall be deprived of his right to vote at the election to be held for such purpose by reason of his not being registered.

5. That instead of the publication as required by the act to provide for holding a convention to revise and amend the Constitution,

approved the eleventh day of December, nineteen hundred, the Governor of this State is hereby authorized to take such steps as will give general publicity and circulation to this Constitution in a manner as economical as practicable.

6. The salaries of the Executive and Judicial and all other officers of this State, who may be holding office at the time of the ratification of this Constitution, and the payment of the present members of the General Assembly, shall not be affected by the provisions of this Constitution.

Done by the people of Alabama, through their delegates in convention assembled in the hall of the House of Representatives, at Montgomery, Alabama, this the third day of September, Anno Domini, nineteen hundred and one.

JOHN B. KNOX, *President.*

Attest:

FRANK N. JULIAN, *Secretary.*

ALASKA

TREATY CEDING ALASKA, 1867

Convention for the cession of the Russian possessions in North America to the United States

Concluded March 30, 1867; ratifications exchanged at Washington June 20, 1867; proclaimed June 20, 1867

The United States of America and His Majesty the Emperor of all the Russias, being desirous of strengthening, if possible, the good understanding which exists between them, have, for that purpose, appointed as their Plenipotentiaries, the President of the United States, William H. Seward, Secretary of State; and His Majesty the Emperor of all the Russias, the Privy Counsellor Edward de Stoeckl, his Envoy Extraordinary and Minister Plenipotentiary to the United States;

And the said Plenipotentiaries, having exchanged their full powers, which were found to be in due form, have agreed upon and signed the following articles:

Article I

His Majesty the Emperor of all the Russias agrees to cede to the United States, by this convention, immediately upon the exchange of the ratifications thereof, all the territory and dominion now possessed by his said Majesty on the continent of America and in the adjacent islands, the same being contained within the geographical limits herein set forth, to wit: The eastern limit is the line of demarcation between the Russian and the British possessions in North America, as established by the convention between Russia and Great Britain, o fFebruary 28–16, 1825, and described in Articles III and IV of said convention, in the following terms:

"Commencing from the sourthernmost point of the island called Prince of Wales Island, which point lies in the parallel of 54 degrees 40 minutes north latitude, and between the 131st and 133rd degree of west longitude, (meridian of Greenwich,) the said line shall ascend to the north along the channel called Portland Channel, as far as the point of the continent where it strikes the 56th degree of north latitude; from this last-mentioned point, the line of demarcation shall follow the summit of the mountains situated parallel to the coast, as far as the point of intersection of the 141st degree of west longitude, (of the same meridian;) and finally, from the said point of intersection, the said meridian line of the 141st degree, in its prolongation as far as the Frozen Ocean.

"IV. With reference to the line of demarcation laid down in the preceding article, it is understood—

"1st. That the island called Prince of Wales Island shall belong wholly to Russia," (now, by this cession to the United States.)

"2nd. That whenever the summit of the mountains which extend in a direction parallel to the coast from the 56th degree of north latitude to the point of intersection of the 141st degree of west longitude shall prove to be at the distance of more than ten marine leagues from the ocean, the limit between the British possessions and the line of coast which is to belong to Russia as above mentioned, (that is to say, the limit to the possessions ceded by this convention,) shall be formed by a line parallel to the winding of the coast, and which shall never exceed the distance of ten marine leagues therefrom."

The western limit within which the territories and dominion conveyed are contained passes through a point in Behring's Straits on the parallel of sixty-five degrees thirty minutes north latitude, at its intersection by the meridian which passes midway between the islands of Krusenstern or Ignalook, and the island of Ratmanoff, or Noonarbook, and proceeds due north without limitation, into the same Frozen Ocean. The same western limit, beginning at the same initial point, proceeds thence in a course nearly southwest, through Behring's Straits and Behring's Sea, so as to pass midway between the northwest point of the island of St. Lawrence and the southeast point of Cape Choukotski, to the meridian of one hundred and seventy-two west longitude; thence, from the intersection of that meridian, in a southwesterly direction, so as to pass midway between the island of Attou and the Copper Island of the Kormandorski couplet or group, in the North Pacific Ocean, to the meridian of one hundred and ninety-three degrees west longitude, so as to include in the territory conveyed the whole of the Aleutian Islands east of that meridian.

Article II

In the cession of territory and dominion made by the preceding article are included the right of property in all public lots and squares, vacant lands, and all public buildings, fortifications, barracks, and other edifices which are not private individual property. It is, however, understood and agreed, that the churches which have been built in the ceded territory by the Russian Government, shall remain the property of such members of the Greek Oriental Church resident in the territory as may choose to worship therein. Any Government archives, papers, and documents relative to the territory and dominion aforesaid, which may now be existing there, will be left in the possession of the agent of the United States; but an authenticated copy of such of them as may be required, will be, at all times, given by the United States to the Russian Government, or to such Russian officers or subjects as they may apply for.

Article III

The inhabitants of the ceded territory, according to their choice, reserving their natural allegiance, may return to Russia within three years; but if they should prefer to remain in the ceded territory, they, with the exception of uncivilized native tribes, shall be admitted to the enjoyment of all the rights, advantages, and immunities of citizens of the United States, and shall be maintained and protected in the free enjoyment of their liberty, property, and religion. The uncivilized tribes will be subject to such laws and

regulations as the United States may from time to time adopt in regard to aboriginal tribes of that country.

ARTICLE IV

His Majesty, the Emperor of all the Russias shall appoint, with convenient dispatch, an agent or agents for the purpose of formally delivering to a similar agent or agents, appointed on behalf of the United States, the territory, dominion, property, dependencies, and appurtenances which are ceded as above, and for doing any other act which may be necessary in regard thereto. But the cession, with the right of immediate possession, is nevertheless to be deemed complete and absolute on the exchange of ratifications, without waiting for such formal delivery.

ARTICLE V

Immediately after the exchange of the ratifications of this convention, any fortifications or military posts which may be in the ceded territory shall be delivered to the agent of the United States, and any Russian troops which may be in the territory shall be withdrawn as soon as may be reasonably and conveniently practicable.

ARTICLE VI

In consideration of the cession aforesaid, the United States agree to pay at the Treasury in Washington, within ten months after the exchange of the ratifications of this convention, to the diplomatic representative or other agent of His Majesty the Emperor of all the Russias, duly authorized to receive the same, seven million two hundred thousand dollars in gold. The cession of territory and dominion herein made is hereby declared to be free and unincumbered by any reservations, privileges, franchises, grants, or possessions, by any associated companies, whether corporate or incorporate, Russian or any other, or by any parties except merely private individual property-holders; and the cession hereby made conveys all the rights, franchises, and privileges now belonging to Russia in the said territory or dominion, and appurtenances thereto.

ARTICLE VII

When this convention shall have been duly ratified by the President of the United States, by and with the advice and consent of the Senate, on the one part, and, on the other, by His Majesty the Emperor of all the Russias, the ratifications shall be exchanged at Washington within three months from the date hereof, or sooner if possible.

In faith whereof, the respective Plenipotentiaries have signed this convention, and thereto affixed the seals of their arms.

Done at Washington the thirtieth day of March, in the year of our Lord one thousand eight hundred and sixty-seven.

[SEAL.] WILLIAM H. SEWARD.
[SEAL.] EDOUARD DE STOECKL.

CIVIL GOVERNMENT IN ALASKA—1884 [a]

[FORTY-FIFTH CONGRESS, SECOND SESSION]

An Act providing a civil government for Alaska.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the territory ceded to the United States by Russia by the treaty of March thirtieth, eighteen hundred and sixty-seven and known as Alaska, shall constitute a civil and judicial district, the government of which shall be organized and administered as hereinafter provided. The temporary seat of government of said district is hereby established at Sitka.

SEC. 2. That there shall be appointed for the said district a governor, who shall reside therein during his term of office and be charged with the interests of the United States Government that may arise within said district. To the end aforesaid he shall have authority to see that the laws enacted for said district are enforced, and to require the faithful discharge of their duties by the officials appointed to administer the same. He may also grant reprieves for offenses committed against the laws of the district or of the United States until the decision of the President thereon shall be made known. He shall be ex officio commander-in-chief of the militia of said district, and shall have power to call out the same when necessary to the due execution of the laws and to preserve the peace, and to cause all able-bodied citizens of the United States in said district to enroll and serve as such when the public exigency demands; and he shall perform generally in and over said district such acts as pertain to the office of governor of a territory, so far as the same may be made or become applicable thereto. He shall make an annual report, on the first day of October in each year, to the President of the United States, of his official acts and doings, and of the condition of said district, with reference to its resources, industries, population, and the administration of the civil government thereof. And the President of the United States shall have power to review and to confirm or annul any reprieves granted or other acts done by him.

SEC. 3. That there shall be, and hereby is, established a district court for said district, with the civil and criminal jurisdiction of district courts of the United States, and the civil and criminal jurisdiction of district courts of the United States exercising the jurisdiction of circuit courts, and such other jurisdiction, not inconsistent with this act, as may be established by law; and a district judge shall be appointed for said district, who shall during his term of office reside therein and hold at least two terms of said court therein in each year, one at Sitka, beginning on the first Monday in May, and the other at Wrangel, beginning on the first Monday in November. He is also authorized and directed to hold such special sessions as may be necessary for the dispatch of the business of said court, at such times

[a] For other acts of an organic nature relating to Alaska see an act to extend to Alaska the laws of United States relating to customs, commerce, and navigation, and to establish a collection district therein, act of July 27, 1868; to establish a criminal code in, March 3, 1899; to regulate town corporations, April 28, 1904; to provide for the establishment and care of roads and schools and the care of the insane, January 27, 1905.

and places in said district as he may deem expedient, and may adjourn such special session to any other time previous to a regular session. He shall have authority to employ interpreters, and to make allowances for the necessary expenses of his court.

SEC. 4. That a clerk shall be appointed for said court, who shall be ex officio secretary and treasurer of said district, a district attorney, and a marshal, all of whom shall during their terms of office reside therein. The clerk shall record and preserve copies of all the laws, proceedings, and official acts applicable to said district. He shall also receive all moneys collected from fines, forfeitures, or in any other manner except from violations of the custom laws, and shall apply the same to the incidental expenses of the said district court and the allowances thereof, as directed by the judge of said court, and shall account for the same in detail, and for any balances on account thereof, quarterly, to and under the direction of the Secretary of the Treasury. He shall be ex officio recorder of deeds and mortgages and certificates of location of mining claims and other contracts relating to real estate and register of wills for said district, and shall establish secure offices in the towns of Sitka and Wrangel, in said district, for the safekeeping of all his official records, and of records concerning the reformation and establishment of the present status of titles to lands, as hereafter directed: *Provided*, That the district court hereby created may direct, if it shall deem it expedient, the establishment of separate offices at the settlements of Wrangel, Oonalashka, and Juneau City, respectively, for the recording of such instruments as may pertain to the several natural divisions of said district most convenient to said settlement, the limits of which shall, in the event of such direction, be defined by said court; and said offices shall be in charge of the commissioners respectively as hereinafter provided.

SEC. 5. That there shall be appointed by the President four commissioners in and for the said district who shall have the jurisdiction and powers of commissioners of the United States circuit courts in any part of said district, but who shall reside, one at Sitka, one at Wrangel, one at Oonalashka, and one at Juneau City. Such commissioners shall exercise all the duties and powers, civil and criminal, now conferred on justices of the peace under the general laws of the State of Oregon, so far as the same may be applicable in said district, and may not be in conflict with this act or the laws of the United States. They shall also have jurisdiction, subject to the supervision of the district judge, in all testamentary and probate matters, and for this purpose their courts shall be opened at stated terms and be courts of record, and be provided with a seal for the authentication of their official acts. They shall also have power to grant writs of habeas corpus for the purpose of inquiring into the cause of restraint of liberty, which writs shall be made returnable before the said district judge for said district; and like proceedings shall be had thereon as if the same had been granted by said judge under the general laws of the United States in such cases. Said commissioners shall also have the powers of notaries public, and shall keep a record of all deeds and other instruments of writing acknowledged before them and relating to the title to or transfer of property within said district, which record shall be subject to public inspection. Said commissioners shall also keep a record of all fines and forfeitures received by them, and

shall pay over the same quarterly to the clerk of said district court. The governor appointed under the provisions of this act shall, from time to time, inquire into the operations of the Alaska Seal and Fur Company, and shall annually report to Congress the result of such inquiries and any and all violations by said company of the agreement existing between the United States and said company.

SEC. 6. That the marshal for said district shall have the general authority and powers of the United States marshals of the States and Territories. He shall be the executive officer of said court, and charged with the execution of all process of said court and with the transportation and custody of prisoners, and he shall be ex officio keeper of the jail or penitentiary of said district. He shall appoint four deputies, who shall reside severally at the towns of Sitka, Wrangle, Oonalashka, and Juneau City, and they shall respectively be ex officio constables and executive officers of the commissioners' courts herein provided, and shall have the powers and discharge the duties of United States deputy marshals, and those of constables under the laws of the State of Oregon now in force.

SEC. 7. That the general laws of the State of Oregon now in force are hereby declared to be the law in said district, so far as the same may be applicable and not in conflict with the provisions of this act of the laws of the United States; and the sentence of imprisonment in any criminal case shall be carried out by confinement in the jail or penitentiary hereinafter provided for. But the said district court shall have exclusive jurisdiction in all cases in equity or those involving a question of title to land, or mining rights, or the constitutionality of a law, and in all criminal offenses which are capital. In all civil cases, at common law, any issue of fact shall be determined by a jury, at the instance of either party; and an appeal shall lie in any case, civil or criminal, from the judgment of said commissioners to the said district court where the amount involved in any civil case is two hundred dollars or more, and in any criminal case where a fine of more than one hundred dollars or imprisonment is imposed, upon the filing of a sufficient appeal bond by the party appealing, to be approved by the court or commissioner. Writs of error in criminal cases shall issue to the said district court from the United States circuit court for the district of Oregon in the cases provided in chapter one hundred and seventy-six of the laws of eighteen hundred and seventy-nine; and the jurisdiction thereby conferred upon circuit courts is hereby given to the circuit court of Oregon. And the final judgments or decrees of said circuit and district court may be reviewed by the Supreme Court of the United States as in other cases.

SEC. 8. That the said district of Alaska is hereby created a land district, and a United States land-office for said district is hereby located at Sitka. The commissioner provided for by this act to reside at Sitka shall be ex officio register of said land-office, and the clerk provided for by this act shall be ex officio receiver of public moneys and the marshal provided for by this act shall be ex officio surveyor-general of said district and the laws of the United States relating to mining claims, and the rights incident thereto, shall, from and after the passage of this act, be in full force and effect in said district, under the administration thereof herein provided for, subject to such regulations as may be made by the Secretary of the Interior, approved by the President: *Provided*, That the Indians or

other persons in said district shall not be disturbed in the possession of any lands actually in their use or occupation or now claimed by them but the terms under which such persons may acquire title to such lands is reserved for future legislation by Congress: *And provided further*, That parties who have located mines or mineral privileges therein under the laws of the United States applicable to the public domain, or who have occupied and improved or exercised acts of ownership over such claims, shall not be disturbed therein, but shall be allowed to perfect their title to such claims by payment as aforesaid: *And provided also*, That the land not exceeding six hundred and forty acres at any station now occupied as missionary stations among the Indian tribes in said section, with the improvements thereon erected by or for such societies, shall be continued in the occupancy of the several religious societies to which said missionary stations respectively belong until action by Congress. But nothing contained in this act shall be construed to put in force in said district the general land laws of the United States.

SEC. 9. That the governor, attorney, judge, marshal, clerk, and commissioners provided for in this act shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall hold their respective offices for the term of four years, and until their successors are appointed and qualified. They shall severally receive the fees of office established by law for the several offices the duties of which have been hereby conferred upon them, as the same are determined and allowed in respect of similar offices under the laws of the United States, which fees shall be reported to the Attorney-General and paid into the Treasury of the United States. They shall receive respectively the following annular salaries. The governor, the sum of three thousand dollars; the attorney, the sum of two thousand five hundred dollars; the marshal, the sum of two thousand five hundred dollars; the judge, the sum of three thousand dollars; and the clerk, the sum of two thousand five hundred dollars, payable to them quarterly from the Treasury of the United States. The District Judge, Marshal, and District Attorney shall be paid their actual, necessary expenses when traveling in the discharge of their official duties. A detailed account shall be rendered of such expenses under oath and as to the marshal and district attorney such account shall be approved by the judge, and as to his expenses by the Attorney General. The commissioners shall receive the usual fees of United States commissioners and of justices of the peace for Oregon, and such fees for recording instruments as are allowed by the laws of Oregon for similar services, and in addition a salary of one thousand dollars each. The deputy marshals, in addition to the usual fees of constables in Oregon, shall receive each a salary of seven hundred and fifty dollars, which salaries shall also be payable quarterly out of the Treasury of the United States. Each of said officials shall, before entering on the duties of his office, take and subscribe an oath that he will faithfully execute the same, which said oath may be taken before the judge of said district or any United States district or circuit judge. That all officers appointed for said district, before entering upon the duties of their offices, shall take the oaths required by law and the laws of the United States, not locally inapplicable to said district and not inconsistent with the provisions of this act are hereby extended thereto; but there shall be

no legislative assembly in said district, nor shall any Delegate be sent to Congress therefrom. And the said clerk shall execute a bond, with sufficient sureties, in the penalty of ten thousand dollars, for the faithful performance of his duties, and file the same with the Secretary of the Treasury before entering on the duties of his office; and the commissioners shall each execute a bond, with sufficient sureties, in the penalty of three thousand dollars, for the faithful performance of their duties, and file the same with the clerk before entering on the duties of their office.

SEC. 10. That any of the public buildings in said district not required for the customs service or military purposes shall be used for court-rooms and offices of the civil government; and the Secretary of the Treasury is hereby directed to instruct and authorize the custodian of said buildings forthwith to make such repairs to the jail in the town of Sitka, in said district, as will render it suitable for a jail and penitentiary for the purposes of the civil government hereby provided, and to surrender to the marshal the custody of said jail and the other public buildings, or such parts of said buildings as may be selected for court-rooms, offices, and officials.

SEC. 11. That the Attorney-General is directed forthwith to compile and cause to be printed, in the English language, in pamphlet form, so much of the general laws of the United States as is applicable to the duties of the governor, attorney, judge, clerk, marshals, and commissioners appointed for said district, and shall furnish for the use of the officers of said Territory so many copies as may be needed of the laws of Oregon applicable to said district.

SEC. 12. That the Secretary of the Interior shall select two of the officers to be appointed under this act, who, together with the governor, shall constitute a commission to examine into and report upon the condition of the Indians residing in said Territory, what lands, if any, should be reserved for their use, what provision shall be made for their education what rights by occupation of settlers should be recognized, and all other facts that may be necessary to enable Congress to determine what limitations or conditions should be imposed when the land laws of the United States shall be extended to said district; and to defray the expenses of said commission the sum of two thousand dollars is hereby appropriated out of any moneys in the Treasury not otherwise appropriated.

SEC. 13. That the Secretary of the Interior shall make needful and proper provision for the education of the children of school age in the Territory of Alaska, without reference to race, until such time as permanent provision shall be made for the same, and the sum of twenty-five thousand dollars, or so much thereof as may be necessary is hereby appropriated for this purpose.

SEC. 14. That the provisions of chapter three, title twenty-three, of the Revised Statutes of the United States, relating to the unorganized Territory of Alaska, shall remain in full force, except as herein specially otherwise provided; and the importation manufacture and sale of intoxicating liquors in said district except for medicinal mechanical and scientific purposes is hereby prohibited under the penalties which are provided in section nineteen hundred and fifty-five of the Revised Statutes for the wrongful importation of distilled spirits. And the President of the United States shall make such regulations as are necessary to carry out the provisions of this section.

Approved, May 17, 1884.

CIVIL GOVERNMENT IN ALASKA—1900

[FIFTY-SIXTH CONGRESS, FIRST SESSION]

An Act making further provision for a civil government for Alaska, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

CHAPTER ONE

SEC. 1. That the territory ceded to the United States by Russia by the treaty of March thirtieth, eighteen hundred and sixty-seven, and known as Alaska, shall constitute a civil and judicial district, the government of which shall be organized and administered as hereinafter provided. The temporary seat of government of said district is hereby established at Juneau: *Provided*, That the seat of government shall remain at Sitka until suitable grounds and buildings thereon shall be obtained by purchase or otherwise at Juneau.

SEC. 2. There shall be appointed for the district a governor, who shall reside therein during his term of office and be charged with the interests of the United States Government within the district. To the end aforesaid he shall have authority to see that the laws enacted for the district are enforced and to require the faithful discharge of their duties by the officials appointed to administer the same. He may also grant reprieves for offenses committed against the laws of the district or of the United States until the decision of the President thereon shall be made known. He shall be ex officio commander in chief of the militia of the district, and shall have power to call out the same when necessary to the due execution of the laws and to preserve the peace, and to cause all able-bodied citizens of the United States in the district to enroll and serve as such when the public exigency demands; and he shall perform generally in and over said district such acts as pertain to the office of governor of a Territory, so far as the same may be made or become applicable thereto.

He shall, subject to the direction and approval of the Secretary of the Interior, advertise for and receive bids and, in behalf of the United States, contract from year to year with the responsible asylum or sanitarium west of the main range of the Rocky Mountains submitting the lowest bid for the care and custody of persons legally adjudged insane in said district of Alaska; the cost of advertising for bids, executing the contract, and caring for the insane to be paid, until otherwise provided by law, by the Secretary of the Treasury, out of any money in the Treasury not otherwise appropriated, on accounts and vouchers duly approved by the governor and the Secretary of the Interior.

The governor shall from time to time inquire into the operations of any person, company, association, or corporation authorized by the United States, by contract or otherwise, to kill seal or other fur-bearing animals in the district, and any and all violations by such person, company, association, or corporation of the agreement with the

United States under which the operations are being conducted, and shall annually report to Congress the result of such inquiries.

He shall make an annual report, on the first day of October in each year, to the President of the United States, of his official acts and doings, and of the condition of the district, with reference to its resources, industries, population, and the administration of the civil government thereof. And the President of the United States shall have power to review and to confirm or annul any reprieves granted or other acts done by him.

The governor may appoint and commission one or more notaries public for the district, and appointments of notaries public heretofore made by him are hereby legalized, and all acts performed by them by virtue of their notarial commissions shall be for all purposes as valid as though the governor had at the time full and complete legal authority to appoint and commission them.

SEC. 3. The surveyor-general of the district shall be ex officio secretary thereof, and as such shall be custodian of the district seal, which shall be provided by the Attorney-General. The surveyor-general, as ex officio secretary of the district, shall perform the official duties required by law to be performed by the secretary of a Territory of the United States, in so far as applicable to said district, and such other duties as may be required by law.

SEC. 4. There is hereby established a district court for the district, which shall be a court of general jurisdiction in civil, criminal, equity, and admiralty causes; and three district judges shall be appointed for the district, who shall, during their terms of office, reside in the divisions of the district to which they may be respectively assigned by the President.

The court shall consist of three divisions. The judge designated to preside over division numbered one shall, during his term of office, reside at Juneau, and shall hold at least four terms of court in the district each year, two at Juneau and two at Skagway, and the judge shall, as near January first as practicable, designate the time of holding the terms during the current year.

The judge designated to preside over division numbered two shall reside at Saint Michaels during his term of office, and shall hold at least one term of court each year at Saint Michaels, in the district, beginning the third Monday in June.

The judge designated to preside over division numbered three shall reside at Eagle City during his term of office, and shall hold at least one term of court each year at Eagle City, in the district, beginning on the first Monday in July: *Provided*, The Attorney-General may for cause change the place of residence of the judge of either division of the court.

Each of the judges is authorized and directed to hold such special terms of court as may be necessary for the public welfare or for the dispatch of the business of the court, at such times and places in the district as they or any of them, respectively, may deem expedient or as the Attorney-General may direct; and each shall have authority to employ interpreters and to make allowances for the necessary expenses of his court, and to employ an official court stenographer under the same terms and conditions as are, or may be, provided for district courts of the United States. At least thirty days' notice shall be

given by the judge or the clerk of the time and place of holding special terms of the court.

SEC. 5. The jurisdiction of each division of the court shall extend over the district of Alaska, but the court in which the action is pending may, on motion, change the place of trial in any action, civil or criminal, from one place to another place in the same division or to a designated place in another division in either of the following cases:

First. When there is reason to believe that an impartial trial can not be had therein;

Second. When the convenience of witnesses and the ends of justice would be promoted by the change;

Third. When from any cause the judge is disqualified from acting; but in such event, if the judge of another division will appear and try the action, no change of place of trial must be made:

Fourth. By the court, on its own motion, when, considering available means of travel, it appears that the defendant will be put to unnecessary expense and inconvenience if summoned to defend in the place or division in which the action has been commenced; and when it appears to the satisfaction of the court, or judge thereof, that an action has been commenced in a place or division remote from the residence of the defendant for the purpose of causing unnecessary expense or inconvenience, the place of trial shall be changed at the cost of the plaintiff, and such costs shall not be recovered from the defendant.

In any criminal prosecution the court shall change the place of trial where it appears to the satisfaction of the court that the defendant will not be prejudiced thereby and that the United States will be put to unnecessary expense in such criminal prosecution if the transfer is not made.

SEC. 6. The respective judges of the court shall appoint, and at pleasure remove, clerks and commissioners in and for the district, who shall have the jurisdiction conferred by law in any part thereof, but who shall, during their terms of office, each reside at the place in the district designated in the respective orders of appointment.

The commissioners shall be ex officio justices of the peace, recorders, and probate judges, and shall perform all the duties and exercise all the powers, civil and criminal, imposed or conferred on the United States commissioners by the general laws of the United States and the special laws applicable to the district.

They shall also have power to grant writs of habeas corpus for the purpose of inquiring into the cause of restraint of liberty, which writs shall be made returnable before a district judge, and like proceedings shall be had thereon as if the same had been granted by the judge under the general laws of the United States in such cases. The commissioners shall also have the powers of notaries public, and shall keep a memorandum of all deeds and other instruments of writing acknowledged before them and relating to the title to or transfer of property within the district, which memorandum shall be subject to public inspection. And all records of instruments of writing hitherto made by any United States commissioner in the district of Alaska are hereby declared to be public records of such district and shall have the same force and effect as if recorded in conformity with the provisions of this Act.

The commissioners shall also keep a record of all fines and forfeitures received by them, and shall pay over the same quarterly to the clerk of the division of the district court in which they were appointed.

SEC. 7. Three clerks shall be appointed for the court, one of whom shall be assigned to each division thereof, and during his term of office reside at the place designated for the residence of the judge of such division. Each clerk shall, in his division of the district, perform the duties required or authorized by law to be performed by clerks of United States courts in other districts, and such other duties as may be prescribed by the laws of the United States relating to the district of Alaska. He shall preserve copies of all laws applicable to the district and shall preserve all records and record all proceedings and official acts of his division of the court. He shall also receive all moneys collected from licenses, fines, forfeitures, or in any other case, except from violations of the customs laws, and shall apply the same to the incidental expenses of the proper division of the district court and the allowance thereof as directed by the judge, and shall account for the same in detail and for any balances on account thereof quarterly to and under the direction of the Secretary of the Treasury. He shall be ex officio recorder of instruments, as hereinafter provided, and also register of wills for the district, and shall establish secure offices where terms of his division of the court are held for the safekeeping of his official records.

SEC. 8. Three district attorneys shall be appointed for the district, to be assigned to the divisions thereof, who shall reside during their respective terms of office at the place designated as the residence of the judge of the division of the court to which each of the district attorneys shall be assigned. They shall each perform the duties required to be performed by United States district attorneys in other districts, and such other duties as may be required by law.

Each district attorney may, subject to the approval of the Attorney-General, appoint and at pleasure remove one or more assistant district attorneys, who shall receive such compensation as the Attorney-General may fix, to be paid as other assistant United States district attorneys are paid. In case of the death or disability of a district attorney the judge may appoint a suitable person to fill the office until his successor is appointed and qualified or until the disability is removed.

SEC. 9. A marshal shall be appointed for each division of the district, and each marshal shall have authority and be required to appoint, subject to the approval of the Attorney-General, such deputy marshals as he may deem necessary for the efficient execution of the law and the orders of the court and of the commissioners appointed as herein provided.

That when in the opinion of the Attorney-General the public interest requires it, he may, on the recommendation of the marshal, which recommendation shall state the facts as distinguished from conclusions, showing necessity for the same, allow the marshals to employ necessary office deputies and clerical assistance, upon salaries to be fixed by the Attorney-General, from time to time, and paid as other officers of the court are paid. When any of such office deputies is engaged in the service or attempted service of any writ, process, subpœna, or other order of the court, or when necessarily absent from

the place of his regular employment upon official business, he shall be allowed his actual traveling expenses only, and his necessary and actual expenses for lodging and subsistence, not to exceed four dollars per day, and the necessary actual expenses in transporting prisoners, including necessary guard hire; and he shall make and render accounts thereof as provided for.

Each marshal shall have the general authority and powers and be subject to the obligations of United States marshals in the States and Territories. He shall be the executive officer of the court, and charged with the execution of all processes thereof and with the transportation and custody of prisoners and insane persons, and he shall be ex officio keeper of the jails and penitentiaries of the division of the district to which he may be assigned, and shall be responsible on his official bond for the acts of all deputy marshals appointed by him. In case of the death of a marshal the district judge shall appoint a suitable person to fill the vacancy until his successor is appointed and qualified. The persons so appointed shall give such bonds as the court may require.

The marshal shall deliver persons duly adjudged insane in the district to the authorities of such asylum or sanitarium as the governor, with the approval of the Secretary of the Interior, may designate, and for the service of process in connection with and the guarding and transportation of the insane he shall be compensated as in the case of prisoners.

The deputy marshals shall be ex officio constables and executive officers of the commissioners herein provided for, and shall have the powers and discharge the duties of United States deputy marshals, and also those of constables, under the laws of the United States applicable to said district.

SEC. 10. The governor, surveyor-general, attorneys, judges, and the marshals provided for in this Act shall be appointed by the President, by and with the advice and consent of the Senate, and shall hold their respective offices for the term of four years or until their successors are appointed and qualified, unless sooner removed by the President for cause.

The officers so appointed shall severally be entitled to receive annual compensation as follows:

The governor, the sum of five thousand dollars; the surveyor-general and ex officio secretary of the district, as full compensation, four thousand dollars; the judges, each the sum of five thousand dollars; each marshal, the sum of four thousand dollars; the clerks, each the sum of three thousand five hundred dollars; the district attorneys, each three thousand dollars, the salaries payable from the Treasury of the United States, as like officers are paid in other districts.

Each clerk shall collect all money arising from the fees of his office or on any other account authorized by law to be paid to or collected by him, and shall report the same and the disposition thereof in detail, under oath, quarterly, or more frequently if required, to the court, the Attorney-General, and the Secretary of the Treasury, and all public money received by him and his deputies for fees or on any other account shall be paid out by the clerk on the order of the court, duly made and signed by the judge, and any balance remaining in his hands after all payments ordered by the court shall have been made

shall be by him covered into the Treasury of the United States at such times and under such rules and regulations as the Secretary of the Treasury may prescribe. The clerk may employ necessary clerical help with the approval and at compensation to be fixed by the court to aid him in the expeditious discharge of the business of his office. Any person so employed shall be paid by the clerk on the order of the court, as other court expenses are paid.

The governor, surveyor-general, marshals, judges, clerks of court, and district attorneys shall, in addition to their salaries, be paid their actual traveling and subsistence expenses when traveling in the discharge of their official duties. Accounts for such expenses shall be rendered and paid as are accounts of judges, marshals, clerks, and district attorneys for like expenses in other districts.

In case of the death, removal, resignation, or absence of the governor from the district, the surveyor-general as ex officio secretary of the district shall have, and he is hereby authorized and required to execute and perform, all the powers and duties of the governor during such vacancy or absence, or until another governor shall be appointed to fill such vacancy.

SEC. 11. An accurate detailed account of all fees received and disbursements made by commissioners and deputy marshals shall be filed quarterly with the clerk for the proper division of the district court and approved by the judge thereof, if found to be in accordance with law; and all net fees received in excess of the sum of three thousand dollars per annum by any commissioner or deputy marshal shall be annually paid to the clerk of the proper division of the court and by him paid into the Treasury of the United States, such payment to be accompanied by a verified detailed statement of such deputy or commissioner.

SEC. 12. The clerks of the court shall each, before entering upon the duties of his office, execute a bond, with sufficient sureties, to be approved by the Secretary of the Treasury, or the court or a judge thereof, in the penalty of twenty thousand dollars, for the faithful performance of his official duties, and file the same with the Attorney-General; and each commissioner shall, before entering upon the duties of his office, execute a bond, with sufficient sureties, to be approved by the court, or a judge thereof, in the penalty of one thousand dollars, for the faithful performance of his official duties, and file the same with the clerk, who shall send a certified copy thereof to the Attorney-General.

SEC. 13. The judges of the district, or a majority of them, shall, as soon as practicable after their appointment, meet, and by appropriate order, to be thereafter entered in each division of the court, divide the district into three recording divisions, designate the division of the court to supervise each, and also define the boundaries thereof by reference to natural objects and permanent landmarks or monuments, in such manner that the boundaries of each recording division can be readily determined and become generally known from such description, which order shall be given publicity in such manner by posting, publication, or otherwise as the judges or any division of the court may direct, the necessary expense of the publication of such order and description of the recording divisions to be allowed and paid as other court expenses.

At any regular or special term an order may be made by the court establishing one or more recording districts within the recording division under the supervision of such division of the court and defining the boundaries thereof by reference to natural objects and permanent landmarks or monuments, in such manner that the boundaries thereof can be readily determined.

The order establishing a recording district shall designate a commissioner to be ex officio recorder thereof, and shall also designate the place where the commissioner shall keep his recording office within the recording district:

Provided, The clerk of the court shall be ex officio recorder of all that portion of the recording division under the supervision of his division of the court not embraced within the limits of a recording district established, bounded, and described therein as authorized by this Act, and when any part of the division for which a clerk has been recording shall be embraced in a recording district, such clerk shall transcribe that portion of his records appertaining to such district and deliver the same to the commissioner designated as recorder thereof.

Whenever it appears to the satisfaction of the court that the public interests demand, or that the convenience of the people require, the court may change or modify the boundaries or discontinue a recording district or change the location of the recording office, or remove the commissioner acting as ex officio recorder, and appoint another commissioner to fill the office.

SEC. 14. The clerk as ex officio recorder must procure such books for records as the business of his office requires and such as may be required by the respective commissioners designated as recorders in his division of the court, but orders for the same must first be obtained from the court or the judge thereof. The respective officers acting as ex officio recorders shall have the custody and must keep all the books, records, maps, and papers deposited in their respective offices, and where a recorder is removed or from any cause becomes unable to act, or a recording district is discontinued, the records and all books, papers, and property relating thereto shall be delivered to the clerk or such officer or person as the court or judge thereof may direct.

The record books procured by the clerk, as herein provided, shall be paid for by him, on the order of the court, out of any moneys in his hands, as other court expenses are paid.

SEC. 15. The respective recorders shall, upon the payment of the fees for the same prescribed by the Attorney-General, record separately, in large and well-bound separate books, in fair hand:

First. Deeds, grants, transfers, contracts to sell or convey real estate and mortgages of real estate, releases of mortgages, powers of attorney, leases which have been acknowledged or proved, mortgages upon personal property;

Second. Certificates of marriage and marriage contracts and births and deaths;

Third. Wills devising real estate admitted to probate;

Fourth. Official bonds;

Fifth. Transcripts of judgments which by law are made liens upon real estate;

Sixth. All orders and judgments made by the district court or the

commissioners in probate matters affecting real estate which are required to be recorded;

Seventh. Notices and declaration of water rights;

Eighth. Assignments for the benefit of creditors;

Ninth. Affidavits of annual work done on mining claims;

Tenth. Notices of mining location and declaratory statements;

Eleventh. Such other writings, as are required or permitted by law to be recorded, including the liens of mechanics, laborers, and others: *Provided*, Notices of location of mining claims shall be filed for record within ninety days from the date of the discovery of the claim described in the notice, and all instruments shall be recorded in the recording district in which the property or subject-matter affected by the instrument is situated, and where the property or subject-matter is not situated in any established recording district the instrument affecting the same shall be recorded in the office of the clerk of the division of the court having supervision over the recording division in which such property or subject matter is situated.

SEC. 16. Any clerk or commissioner authorized to record any instrument who having collected fees for so doing fails to record such instrument shall account to his successor in office, or to such person as the court may direct, for all the fees received by him for recording any instrument on file and unrecorded at the expiration of his official term, or at the time he is required to transfer his records to another officer under the direction of the court. And any clerk or commissioner who fails, neglects, or refuses to so account for fees received and not actually earned by the recording of [an] instrument shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than one hundred dollars nor more than one thousand dollars, and imprisoned for not more than one year, or until the fees received and unearned as aforesaid shall have been properly accounted for and paid over by him, as hereinbefore provided. And in addition such fees may be recovered from such clerk or commissioner or the bondsmen of either, in a civil action which shall be brought by the district attorney, in the name of the United States, to recover the same; and the amount when recovered shall be by the court transferred to the successor in office of such recorder, who shall thereupon proceed to record the unrecorded instruments: *Provided*, Miners in any organized mining district may make rules and regulations governing the recording of notices of location of mining claims, water rights, flumes and ditches, mill sites and affidavits of labor, not in conflict with this Act or the general laws of the United States; and nothing in this Act shall be construed so as to prevent the miners in any regularly organized mining district not within any recording district established by the court from electing their own mining recorder to act as such until a recorder therefor is appointed by the court: *Provided further*, All records heretofore regularly made by the United States commissioner at Dyea, Skagway, and the recorder at Douglas City, not in conflict with any records regularly made with the United States commissioner at Juneau, are hereby legalized. And all records heretofore made in good faith in any regularly organized mining district are hereby made public records, and the same shall be delivered to the recorder for the recording district including such mining district within six months from the passage of this Act.

SEC. 17. Every person appointed as a notary public must at the time of his appointment be a resident of the district and must continue to reside therein during his term of office. Removal from the district vacates his office and is equivalent to resignation.

The term of office of a notary public shall be four years from and after the date of his commission, but he may be sooner removed by the governor for misconduct in office.

SEC. 18. It shall be the duty of a notary public—

First. When requested, to demand acceptance and payment of foreign, domestic, and inland bills of exchange, or promissory notes, and protest the same for nonacceptance and nonpayment, and to exercise such other powers and duties as by the law of nations and according to commercial usages or by the laws of any State, government, or country may be performed by notaries, and keep a record of such acts.

Second. To take acknowledgment or proof of powers of attorney, deeds, mortgages, grants, transfers, and other instruments of writing executed by any person and to give a certificate of such proof or acknowledgment indorsed or attached to the instrument.

Third. To take depositions and affidavits and administer oaths and affirmations in all matters incident to the duties of the office or to be used before any court, judge, or officer.

Fourth. When requested and upon payment of his fees therefor to make and give a certified copy of any record in his office.

Fifth. To provide and keep an official seal, upon which must be engraved the name of the district and the words "Notary Public," with the surname of the notary and at least the initials of his Christian name.

SEC. 19. The protest of a notary public under his hand and seal of a bill of exchange or promissory note for nonacceptance or nonpayment, stating the presentment for acceptance or payment and the nonacceptance or nonpayment thereof, the service of notice on any and all parties to such bill of exchange or promissory note and specifying the mode of giving such notice and the reputed place of residence of the party to such bill of exchange or promissory note and of the party to whom same was given and the post-office nearest thereto is prima facie evidence of the facts contained therein.

SEC. 20. It shall be the duty of every notary public, on his resignation or removal from office or at the expiration of his term and in case of his death of his legal representative, to forthwith deposit all the records kept by him in the office of the clerk of the division of the district court in which he resides, and on failure to do so the person so offending is liable in damages to any person injured thereby.

SEC. 21. It shall be the duty of each clerk aforesaid to receive and safely keep all records and papers of the notary in each case above named and to give attested copies of them under his seal, for which he may demand such fees as by law may be allowed to the notaries, and such copies shall have the same effect as if certified by the notary.

SEC. 22. Each notary must execute an official bond in the sum of one thousand dollars, which bond must be approved by the clerk of the division of the district court located nearest his residence.

SEC. 23. Each notary public, upon approval of his official bond, so soon as he has taken his official oath, must transmit such bond and oath, signed by him with his own proper signature to the office of the

secretary of the district, whereupon the governor must issue a commission.

SEC. 24. For the official misconduct or neglect of a notary public, he and sureties on his official bond are liable to the parties injured thereby for all damages sustained.

SEC. 25. The officers properly qualified and actually discharging official duties in the district at the time of the approval of this Act may continue to act in their respective official capacities until the expiration of the terms for which they were respectively appointed unless sooner removed.

SEC. 26. The laws of the United States relating to mining claims, mineral locations, and rights incident thereto are hereby extended to the District of Alaska: *Provided*, That subject only to such general limitations as may be necessary to exempt navigation from artificial obstructions all land and shoal water between low and mean high tide on the shores, bays, and inlets of Bering Sea, within the jurisdiction of the United States, shall be subject to exploration and mining for gold and other precious metals by citizens of the United States, or persons who have legally declared their intentions to become such, under such reasonable rules and regulations as the miners in organized mining districts may have heretofore made or may hereafter make governing the temporary possession thereof for exploration and mining purposes until otherwise provided by law: *Provided further*, That the rules and regulations established by the miners shall not be in conflict with the mining laws of the United States; and no exclusive permit shall be granted by the Secretary of War authorizing any person or persons, corporation or company to excavate or mine under any of said waters below low tide, and if such exclusive permit has been granted it is hereby revoked and declared null and void; but citizens of the United States or persons who have legally declared their intention to become such shall have the right to dredge and mine for gold or other precious metals in said waters, below low tide, subject to such general rules and regulations as the Secretary of War may prescribe for the preservation of order and the protection of the interests of commerce; such rules and regulations shall not, however, deprive miners on the beach of the right hereby given to dump tailings into or pump from the sea opposite their claims, except where such dumping would actually obstruct navigation, and the reservation of a roadway sixty feet wide, under the tenth section of the Act of May fourteenth, eighteen hundred and ninety-eight, entitled "An Act extending the homestead laws and providing for right of way for railroads in the District of Alaska, and for other purposes," shall not apply to mineral lands or town sites.

SEC. 27. The Indians or persons conducting schools or missions in the district shall not be disturbed in the possession of any lands now actually in their use or occupation, and the land, at any station not exceeding six hundred and forty acres, now occupied as missionary stations among the Indian tribes in the section, with the improvements thereon erected by or for such societies, shall be continued in the occupancy of the several religious societies to which the missionary stations respectively belong, and the Secretary of the Interior is hereby directed to have such lands surveyed in compact form as nearly as

practicable and patents issued for the same to the several societies to which they belong; but nothing contained in this Act shall be construed to put in force in the district the general land laws of the United States.

SEC. 28. The Secretary of the Interior shall make needful and proper provision and regulations for the education of the children of school age in the district of Alaska, without reference to race and their compulsory attendance at school, until such time as permanent provision shall be made for the same.[a]

---

[a] The remainder of this act occupies over two hundred pages of the Statutes at Large (vol. 31, pp. 321–552).

ARIZONA

For organic acts issued before 1853 relating to the land now included within Arizona, see in this work:

Treaty of Cession with Mexico, 1848 (California, p. 377).
Territorial Government of New Mexico, 1850 (New Mexico, p. 2615).

TREATY WITH MEXICO—1853

Concluded, December 30, 1853; ratifications exchanged at Washington, June 30, 1854; proclaimed, June 30, 1854.

In the name of Almighty God:

The Republic of Mexico and the United States of America, desiring to remove every cause of disagreement which might interfere in any manner with the better friendship and intercourse between the two countries, and especially in respect to the true limits which should be established, when, notwithstanding what was covenanted in the treaty of Guadalupe Hidalgo in the year 1848, opposite interpretations have been urged, which might give occasion to questions of serious moment; to avoid these, and to strengthen and more firmly maintain the peace which happily prevails between the two republics, the President of the United States has, for this purpose, appointed James Gadsden, Envoy Extraordinary and Minister Plenipotentiary of the same, near the Mexican government, and the President of Mexico has appointed as Plenipotentiary "*ad hoc*" his excellency Don Manuel Diez de Bonilla, cavalier grand cross of the national and distinguished order of Guadalupe, and Secretary of State, and of the office of Foreign Relations, and Don José Salazar Ylarregui and General Mariano Monterde as scientific commissioners, invested with full powers for this negotiation, who, having communicated their respective full powers, and finding them in due and proper form, have agreed upon the articles following:

Article I

The Mexican Republic agrees to designate the following as her true limits with the United States for the future: retaining the same dividing line between the two Californias as already defined and established, according to the 5th article of the treaty of Guadalupe Hidalgo, the limits between the two republics shall be as follows: Beginning in the Gulf of Mexico, three leagues from land, opposite the mouth of the Rio Grande, as provided in the 5th article of the treaty of Guadalupe Hidalgo; thence, as defined in the said article, up the middle of that river to the point where the parallel of 31° 47′ north latitude crosses the same; thence due west one hundred miles;

thence south to the parallel of 31° 20′ north latitude; thence along the said parallel of 31° 20′ to the 111th meridian of longitude west of Greenwich; thence in a straight line to a point on the Colorado River twenty English miles below the junction of the Gila and Colorado Rivers; thence up the middle of the said river Colorado until it intersects the present line between the United States and Mexico.

For the performance of this portion of the treaty, each of the two governments shall nominate one commissioner, to the end that, by common consent the two thus nominated, having met in the city of Paso del Norte, three months after the exchange of the ratifications of this treaty, may proceed to survey and mark out upon the land the dividing line stipulated by this article, where it shall not have already been surveyed and established by the mixed commission. according to the treaty of Guadalupe, keeping a journal and making proper plans of their operations. For this purpose, if they should judge it necessary, the contracting parties shall be at liberty each to unite to its respective commissioner, scientific or other assistants, such as astronomers and surveyors, whose concurrence shall not be considered necessary for the settlement and ratification of a true line of division between the two Republics; that line shall be alone established upon which the commissioners may fix, their consent in this particular being considered decisive and an integral part of this treaty, without necessity of ulterior ratification or approval, and without room for interpretation of any kind by either of the parties contracting.

The dividing line thus established shall, in all time, be faithfully respected by the two governments, without any variation therein, unless of the express and free consent of the two, given in conformity to the principles of the law of nations, and in accordance with the constitution of each country respectively.

In consequence, the stipulation in the 5th article of the treaty of Guadalupe upon the boundary line therein described is no longer of any force, wherein it may conflict with that here established, the said line being considered annulled and abolished wherever it may not coincide with the present, and in the same manner remaining in full force where in accordance with the same.

Article II

The government of Mexico hereby releases the United States from all liability on account of the obligations contained in the eleventh article of the treaty of Guadalupe Hidalgo; and the said article and the thirty-third article of the treaty of amity, commerce, and navigation between the United States of America and the United Mexican States concluded at Mexico, on the fifth day of April, 1831, are hereby abrogated.

Article III

In consideration of the foregoing stipulations, the Government of the United States agrees to pay to the government of Mexico, in the city of New York, the sum of ten millions of dollars, of which seven millions shall be paid immediately upon the exchange of the ratifications of this treaty, and the remaining three millions as soon as the boundary line shall be surveyed, marked, and established.

ARTICLE IV

The provisions of the 6th and 7th articles of the treaty of Guadalupe Hidalgo having been rendered nugatory, for the most part, by the cession of territory granted in the first article of this treaty, the said articles are hereby abrogated and annulled, and the provisions as herein expressed substituted therefor. The vessels, and citizens of the United States, shall, in all time, have free and uninterrupted passage through the Gulf of California, to and from their possessions situated north of the boundary line of the two countries. It being understood that this passage is to be by navigating the Gulf of California and the river Colorado, and not by land, without the express consent of the Mexican government; and precisely the same provisions, stipulations, and restrictions, in all respects, are hereby agreed upon and adopted, and shall be scrupulously observed and enforced by the two contracting governments in reference to the Rio Colorado, so far and for such distance as the middle of that river is made their common boundary line by the first article of this treaty.

The several provisions, stipulations, and restrictions contained in the 7th article of the treaty of Guadalupe Hidalgo shall remain in force only so far as regards the Rio Bravo del Norte, below the initial of the said boundary provided in the first article of this treaty; that is to say, below the intersection of the 31° 47′ 30″ parallel of latitude, with the boundary line established by the late treaty dividing said river from its mouth upwards, according to the fifth article of the treaty of Guadalupe.

ARTICLE V

All the provisions of the eighth and ninth, sixteenth and seventeenth articles of the treaty of Guadalupe Hidalgo, shall apply to the territory ceded by the Mexican Republic in the first article of the present treaty, and to all the rights of persons and property, both civil and ecclesiastical, within the same, as fully and as effectually as if the said articles were herein again recited and set forth.

ARTICLE VI

No grants of land within the territory ceded by the first article of this treaty bearing date subsequent to the day—twenty-fifth of September—when the minister and subscriber to this treaty on the part of the United States, proposed to the Government of Mexico to terminate the question of boundary, will be considered valid or be recognized by the United States, or will any grants made previously be respected or be considered as obligatory which have not been located and duly recorded in the archives of Mexico.

ARTICLE VII

Should there at any future period (which God forbid) occur any disagreement between the two nations which might lead to a rupture of their relations and reciprocal peace, they bind themselves in like manner to procure by every possible method the adjustment of every difference; and should they still in this manner not succeed,

never will they proceed to a declaration of war, without having previously paid attention to what has been set forth in article twenty-one of the treaty of Guadalupe for similar cases; which article, as well as the twenty-second, is here reaffirmed.

Article VIII

The Mexican Government having on the 5th of February, 1853, authorized the early construction of a plank and railroad across the Isthmus of Tehuantepec, and, to secure the stable benefits of said transit way to the persons and merchandise of the citizens of Mexico and the United States, it is stipulated that neither government will interpose any obstacle to the transit of persons and merchandise of both nations; and at no time shall higher charges be made on the transit of persons and property of citizens of the United States, than may be made on the persons and property of other foreign nations, nor shall any interest in said transit way, nor in the proceeds thereof, be transferred to any foreign government.

The United States, by its agents, shall have the right to transport across the isthmus, in closed bags, the mails of the United States not intended for distribution along the line of communication; also the effects of the United States government and its citizens, which may be intended for transit, and not for distribution on the isthmus, free of custom-house or other charges by the Mexican government. Neither passports nor letters of security will be required of persons crossing the isthmus and not remaining in the country.

When the construction of the railroad shall be completed, the Mexican government agrees to open a port of entry in addition to the port of Vera Cruz, at or near the terminus of said road on the Gulf of Mexico.

The two governments will enter into arrangements for the prompt transit of troops and munitions of the United States, which that government may have occasion to send from one part of its territory to another, lying on opposite sides of the continent.

The Mexican government having agreed to protect with its whole power the prosecution, preservation, and security of the work, the United States may extend its protection as it shall judge wise to it when it may feel sanctioned and warranted by the public or international law.

Article IX

This treaty shall be ratified, and the respective ratifications shall be exchanged at the city of Washington within the exact period of six months from the date of its signature, or sooner, if possible.

In testimony whereof, we, the plenipotentiaries of the contracting parties, have hereunto affixed our hands and seals at Mexico, the thirtieth (30th) day of December, in the year of our Lord one thousand eight hundred and fifty-three, in the thirty-third year of the independence of the Mexican republic, and the seventy-eighth of that of the United States.

James Gadsden, [L. S.]
Manuel Diez de Bonilla, [L. S.]
Jose Salazar Ylarregui, [L. S.]
J. Mariano Monterde, [L. S.]

TERRITORIAL GOVERNMENT OF ARIZONA—1863 [a]

[THIRTY-SEVENTH CONGRESS, THIRD SESSION]

An Act to provide a temporary Government for the Territory of Arizona, and for other Purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all that part of the present Territory of New Mexico situate west of a line running due south from the point where the southwest corner of the Territory of Colorado joins the northern boundary of the Territory of New Mexico to the southern boundary line of said Territory of New Mexico be, and the same is hereby, erected into a temporary government by the name of the Territory of Arizona: *Provided*, That nothing contained in the provisions of this act shall be construed to prohibit the Congress of the United States from dividing said Territory or changing its boundaries in such manner and at such time as it may deem proper: *Provided, further*, That said government shall be maintained and continued until such time as the people residing in said Territory shall, with the consent of Congress, form a State government, republican in form, as prescribed in the Constitution of the United States, and apply for and obtain admission into the Union as a State, on an equal footing with the original States.

Sec. 2. *And be it further enacted*, That the government hereby authorized shall consist of an executive, legislative, and judicial power. The executive power shall be vested in a governor. The legislative power shall consist of a council of nine members, and a house of representatives of eighteen. The judicial power shall be vested in a supreme court, to consist of three judges, and such inferior courts as the legislative council may by law prescribe; there shall also be a secretary, a marshal, a district attorney, and a surveyor-general for said Territory, who, together with the governor and judges of the supreme court, shall be appointed by the President, by and with the advice and consent of the Senate, and the term of office for each, the manner of their appointment, and the powers, duties, and the compensation of the governor, legislative assembly, judges of the supreme court, secretary, marshal, district attorney, and surveyor-general aforesaid, with their clerks, draughtsman, deputies, and sergeant-at-arms, shall be such as are conferred upon the same officers by the act organizing the Territorial government of New Mexico, which subordinate officers shall be appointed in the same manner, and not

[a] For other statutes of an organic nature relating to Arizona subsequent to 1863, see an act to regulate elective franchise in, January 25, 1867; to prohibit special acts of incorporation, March 2, 1867; to confirm apportionment and to amend certain laws of, March 23, 1870; to limit the duration of legislative sessions and to fix the pay of members, January 23, 1873; to empower legislative assembly to pass general laws for the incorporation of certain companies, June 10, 1872; to fix the nature of governor's veto power, July 19, 1876; to fix number of members and compensation of each house of legislature, June 19, 1878, June 27, 1879; to limit legislature's power to pass special acts of incorporation, March 3, 1885; to prohibit many forms of special legislation, July 30, 1886; to permit the erection of counties, July 19, 1888; to give control over liquor traffic, August 8, 1890; to provide for appeals to United States circuit court of appeals, March 3, 1891.

exceed in number those created by said act; and acts amendatory thereto, together with all legislative enactments of the Territory of New Mexico not inconsistent with the provisions of this act, are hereby extended to and continued in force in the said Territory of Arizona, until repealed or amended by future legislation: *Provided*, That no salary shall be due or paid the officers created by this act until they have entered upon the duties of their respective offices within the said Territory.

SEC. 3. *And be it further enacted*, That there shall neither be slavery nor involuntary servitude in the said Territory, otherwise than in the punishment of crimes, whereof the parties shall have been duly convicted; and all acts and parts of acts, either of Congress or of the Territory of New Mexico, establishing, regulating or in any way recognizing the relation of master and slave in said Territory, are hereby repealed.

Approved, February 24, 1863.

ENABLING ACT FOR ARIZONA AND NEW MEXICO—1906

(See Oklahoma, p. 2960.)

ARKANSAS

For organic acts issued before 1817 relating to the land now included within Arkansas, see in this work:

Treaty Ceding Louisiana, 1803 (Louisiana, p. 1359).
The District of Louisiana, 1804 (Louisiana, p. 1364).
The Territory of Louisiana, 1805 (Louisiana, p. 1371).
The Territory of Missouri, 1812 (Missouri, p. 2139).

TERRITORIAL GOVERNMENT OF ARKANSAS—1819 [a]

[FIFTEENTH CONGRESS, SECOND SESSION]

An Act establishing a separate territorial government in the southern part of the Territory of Missouri

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, from and after the fourth day of July next, all that part of the Territory of Missouri which lies south of a line beginning on the Mississippi River, at thirty-six degrees north latitude, running thence west to the river Saint François; thence, up the same, to thirty-six degrees thirty minutes north latitude; and thence, west, to the western territorial boundary-line; shall, for the purposes of a territorial government, constitute a separate Territory, and be called the Arkansaw Territory.

SEC. 2. *And be it further enacted*, That there shall be established in the said Territory of Arkansaw, a temporary government, to consist of three departments, the executive, the legislative, and the judiciary.

SEC. 3. *And be it further enacted*, That the executive power shall be vested in a governor, who shall reside in the said Territory, and shall hold his office during three years, unless sooner removed by the President of the United States; he shall be commander-in-chief of the militia of said Territory, shall have power to appoint and commission all officers required by law to be appointed for said Territory, whose appointments are not otherwise provided for by this act; shall

[a] For other statutes of an organic nature relating to Arkansas subsequent to 1819, see the act to declare the provisions of earlier laws respecting Missouri Territory in force in Arkansas, April 24, 1820; to fix the western boundary of, May 26, 1824; to reorganize the courts and permit the erection of counties, April 17, 1828; to mark boundary with Louisiana, May 19, 1828; to pay salaries of legislative council and of officers, May 24, 1828; to authorize citizens to elect officers, and giving governor a qualified veto upon the action of the two houses of the legislature, January 21, 1829; to appoint a brigadier-general over the militia, April 15, 1830; to authorize the courts to reverse certain decisions, May 8, 1830; to authorize governor to appoint to certain vacancies, May 8, 1830; to define qualifications of electors, May 31, 1832; to increase salaries of judges, June 30, 1834.

take care that the laws be faithfully executed; shall have power to grant pardons for offenses against the said Territory, and reprieves for those against the United States, until the decision of the President thereon shall have been made known; shall, on extraordinary occasions, have power to convene the general assembly, hereinafter provided for, after one shall have been organized in conformity to law; shall, ex-officio, be superintendent of Indian affairs, and shall have such other powers, and perform such further duties, as are by law given to, and imposed on, the governor of the Missouri Territory, in all cases in which they shall become legally applicable to the Territory of Arkansaw.

Sec. 4. *And be it further enacted*, That there shall be a secretary for the said Territory, who shall reside therein and continue in office for the term of four years, unless sooner removed by the President; he shall perform all the duties imposed on the secretary for the Territory of Missouri, by an act of Congress of the fourth of June, eighteen hundred and twelve, entitled "An act providing for the government of Missouri."

Sec. 5. *And be it further enacted*, That the legislative power shall, until the organization of the general assembly, hereinafter provided for, be vested in the governor and the judges of the superior court of the Territory, who shall have power to pass any law for the administration of justice in said Territory, which shall not be repugnant to this act, or inconsistent with the Constitution of the United States: *Provided*, That whenever the general assembly shall be organized, all the legislative power of the Territory shall be vested in, and be exercised by, the said general assembly.

Sec. 6. *And be it further enacted*, That so much of the act of Congress of the fourth of June, eighteen hundred and twelve, entitled "An act providing for the government of the Territory of Missouri," as relates to the organization of a general assembly therein, prescribes the powers and privileges thereof, the mode of election, and period of service, of the members thereof, and defines the qualifications and privileges of the electors and elected, shall be in full force and operation in the Arkansaw Territory, to the extent of its application, so soon as the governor thereof shall be satisfied that such is the desire of a majority of the freeholders thereof, and not until then: *Provided*, That until there shall be five thousand free white males, of the age of twenty-one years and upwards, resident in the said Territory, the whole number of representatives shall not exceed nine.

Sec. 7. *And be it further enacted*, That the judicial power of the Territory shall be vested in a superior court, and in such inferior courts as the legislative department of the Territory shall, from time to time, institute and establish, and in justices of the peace. The superior court shall be composed of three judges, who shall reside in the Territory, and continue in office for the term of four years, unless sooner removed by the President. The superior court shall have jurisdiction in all criminal and penal cases, and exclusive cognizance of all capital cases, and shall have and exercise original jurisdiction, concurrently with the inferior courts, and exclusive appellate jurisdiction in all civil cases in which the amount in controversy shall be one hundred dollars or upwards. The superior court shall be holden

at such times and place, or places, as the legislative department shall direct, and continue in session until the business therein shall be disposed of, or as long as shall be prescribed by law. *Provided*, That any two of the judges shall constitute a court of appellate, and any one a court of original, jurisdiction.

SEC. 8. *And be it further enacted*, That the governor, secretary, judges, and all other officers, of the Territory, civil and military, shall, before they enter on the duties of their respective offices, take an oath or affirmation to support the Constitution of the United States, and to discharge, with fidelity, the duties of their offices; the governor, before a judge of the supreme or district court of the United States, or a judge of the superior court of the said Territory; the secretary and judges, before the said governor, or a judge of the supreme or district court of the United States; and all other officers, before the governor, or any of the judges of the supreme or inferior courts, or justices of the peace, of said Territory.

SEC. 9. *And be it further enacted*, That the governor, secretary, and judges of the superior court authorized for said Territory, during the temporary government thereof, shall be appointed by the President of the United States, with the advice and consent of the Senate: *Provided*, That the President shall have full power, during the recess of the Senate, to commission all or any of the said officers, until the end of the session of Congress next succeeding the date of the commission. The governor, secretary, and judges of the superior court shall receive the same compensation, payable quarter-yearly, which the governor, secretary, and superior judges of the Missouri Territory are entitled to by law.

SEC. 10. *And be it further enacted*, That all the laws which shall be in force in the Territory of Missouri, on the fourth day of July next, not inconsistent with the provisions of this act, and which shall be applicable to the Territory of Arkansaw, shall be, and continue, in force in the latter Territory, until modified or repealed by the legislative authority thereof.

SEC. 11. *And be it further enacted*, That the bounty-lands granted, or hereafter to be granted, for military services during the late war, shall, while they continue to be held by the patentees or their heirs, remain exempt from all taxes, for the term of three years from and after the date of the patents respectively.

SEC. 12. *And be it further enacted*, That whenever, according to the provisions of this act, the people of the Arkansaw Territory shall have a right to elect members of the house of representatives of their general assembly, they shall also have the right to elect a Delegate from the said Territory to the Congress of the United States, who shall possess the same powers, enjoy the same privileges, and receive the same compensation granted and secured by law to the delegates from other Territories.

SEC. 13. *And be it further enacted*, That until otherwise directed by the legislative department of the said Territory of Arkansaw, the seat of the territorial government thereof shall be the post of Arkansaw, on the Arkansaw River.

SEC. 14. *And be it further enacted*, That the line now established by law, between the land-offices at the seat of justice in the county of Lawrence, and at the town of Jackson, in the county of Cape Girar-

deau, shall, from and after the passage of this act, be so altered as to run, be the same, and correspond, with the northern line of the said Territory of Arkansaw, anything in the act, entitled "An act making provision for the establishment of additional land-offices in the Territory of Missouri," passed the seventeenth day of February, one thousand eight hundred and eighteen, to the contrary notwithstanding.

Approved March 2, 1819.

ENABLING ACT FOR ARKANSAS—1836

[Twenty-fourth Congress, First Session]

An Act for the admission of the State of Arkansas into the Union, and to provide for the due execution of the laws of the United States within the same, and for other purposes

Whereas, the people of the Territory of Arkansas did, on the thirtieth day of January, in the present year, by a convention of delegates called and assembled for that purpose, form for themselves a constitution and State government, which constitution and State government, so formed, is republican: *And whereas* the number of inhabitants within the said Territory exceeds forty-seven thousand seven hundred persons, computed according to the rule prescribed by the Constitution of the United States; and the said convention have, in their behalf, asked the Congress of the United States to admit the said Territory into the Union as a State, on an equal footing with the original States:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Arkansas shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States in all respects whatever; and the said State shall consist of all the territory included within the following boundaries, to wit: Beginning in the middle of the main channel of the Mississippi River, on the parallel of thirty-six degrees north latitude, running from thence west, with the said parallel of latitude, to the Saint Francis River; thence up the middle of the main channel of said river to the parallel of thirty-six degrees, thirty minutes, north; from thence west to the southwest corner of the State of Missouri; and from thence to be bounded on the west, to the north bank of Red River, by the lines described in the first article of the treaty between the United States and the Cherokee Nation of Indians, west of the Mississippi, made and concluded at the city of Washington, on the twenty-sixth day of May, in the year of our Lord one thousand eight hundred and twenty-eight; and to be bounded on the south side of Red River by the Mexican boundary-line, to the northwest corner of the State of Louisiana; thence east, with the Louisiana State line, to the middle of the main channel of the Mississippi River; thence up the middle of the main channel of the said river to the thirty-sixth degree of north latitude, the point of beginning.

Sec. 2. *And be it further enacted*, That until the next general census shall be taken, the said State shall be entitled to one Representative in the House of Representatives of the United States.

SEC. 3. *And be it further enacted*, That all the laws of the United States, which are not locally inapplicable, shall have the same force and effect within the said State of Arkansas as elsewhere within the United States.

SEC. 4. *And be it further enacted*, That the said State shall be one judicial district, and be called the Arkansas district; and a district court shall be held therein, to consist of one judge, who shall reside in the said district, and be called a district judge. He shall hold, at the seat of government of the said State, two sessions annually, on the first Mondays of April and November; and he shall, in all things, have and exercise the same jurisdiction and powers which were by law given to the judge of the Kentucky district, under an act entitled "An act to establish the judicial courts of the United States." He shall appoint a clerk for the said district court, who shall reside and keep the records of the court, at the place of holding the same; and shall receive, for the services performed by him, the same fees to which the clerk of the Kentucky district is entitled for similar services.

SEC. 5. *And be it further enacted*, That there shall be allowed to the judge of the said district court the annual compensation of two thousand dollars, to commence from the date of his appointment, to be paid quarter-yearly at the Treasury of the United States.

SEC. 6. *And be it further enacted*, That there shall be appointed in the said district a person learned in the law, to act as attorney for the United States, who shall, in addition to his stated fees, be paid by the United States two hundred dollars, as a full compensation for all extra services.

SEC. 7. *And be it further enacted*, That a marshal shall be appointed for the said district, who shall perform the same duties, be subject to the same regulations and penalties, and be entitled to the same fees, as are prescribed to marshals in other districts; and he shall, moreover, be entitled to the sum of two hundred dollars annually, as a compensation for all extra services.

SEC. 8. *And be it further enacted*, That the State of Arkansas is admitted into the Union upon the express condition, that the people of the said State shall never interfere with the primary disposal of the public lands within the said State, nor shall they levy a tax on any of the lands of the United States within the said State; and nothing in this act shall be construed as an assent by Congress to all or to any of the propositions contained in the ordinance of the said convention of the people of Arkansas, nor to deprive the said State of Arkansas of the same grants, subject to the same restrictions, which were made to the State of Missouri, by virtue of an act entitled "An act to authorize the people of the Missouri Territory to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States, and to prohibit slavery in certain Territories," approved the sixth day of March, one thousand eight hundred and twenty.

Approved, June 15, 1836.

SUPPLEMENTARY ENABLING ACT FOR ARKANSAS—1836 [a]

[TWENTY-FOURTH CONGRESS, FIRST SESSION]

An Act supplementary to the act entitled, "An act for the admission of the State of Arkansas into the Union, and to provide for the due execution of the laws of the United States within the same, and for other purposes"

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in lieu of the propositions submitted to the Congress of the United States, by an ordinance passed by the convention of delegates at Little Rock, assembled for the purpose of making a constitution for the State of Arkansas, which are hereby rejected; and that the following propositions be, and the same are hereby, offered to the general assembly of the State of Arkansas, for their free acceptance or rejection, which, if accepted, under the authority granted to the said general assembly for this purpose, by the convention which framed the constitution of the said State, shall be obligatory upon the United States:

First. That section numbered sixteen in every township, and, when such section has been sold or otherwise disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to the State for the use of the inhabitants of such township for the use of schools.

Second. That all salt-springs not exceeding twelve in number, with six sections of land adjoining to each, shall be granted to the said State, for the use of said State, the same to be selected by the general assembly thereof on or before the first day of January, one thousand eight hundred and forty; and the same, when so selected, to be used under such terms, conditions, and regulations, as the general assembly of the said State shall direct: *Provided*, That no salt-spring, the right whereof is now vested in any individual or individuals, or which may hereafter be confirmed or adjudged to any individual or individuals, shall by this section be granted to said State: *And provided, also*, That the general assembly shall never sell or lease the same, at any one time, for a longer period than ten years, without the consent of Congress; and that nothing contained in the act of Congress entitled, "An act authorizing the governor of the Territory of Arkansas to lease the salt-springs in said Territory, and for other purposes," or in any other act, shall be construed to give to

---

[a] The following acts of Congress are in substantial modification of the enabling act, viz:

I. "An act to authorize the legislatures of the States of Illinois, Arkansas, Louisiana, and Tennessee to sell the lands heretofore appropriated for the use of schools in those States," approved February 15, 1843.

II. "An act giving the assent of Congress to a change of the compact entered into between the United States and the State of Arkansas, on her admission into the Union," approved July 29, 1846. [Authorizing the general assembly of the State to appropriate for the use and benefit of common schools, or in any other mode deemed proper, for the promotion of education, certain lands, known as "Seminary Lands," therefore, by direction of act of Congress, appropriated solely to the use and support of a university.]

III. Section 3 of "An act to give the consent of Congress to the sale of certain salt-spring lands, heretofore granted to the States of Michigan, Illinois, and Arkansas," approved March 3, 1847.

the said State any further or other claim whatsoever, to any salt-springs or lands adjoining thereto, than to those hereby granted.

Third. That five per cent of the nett proceeds of the sale of lands lying within the said State, and which shall be sold by Congress from and after the first day of July next, after deducting all expenses incident to the same, shall be reserved for making public roads and canals within the said State, under the direction of the general assembly thereof.

Fourth. That a quantity of land not exceeding five sections be, and the same is hereby, granted to the said State, in addition to the ten sections which have already been granted, for the purpose of completing the public buildings of the said State, at Little Rock; which said five sections shall, under the direction of the general assembly of said State, be located, at any time, in legal divisions of not less than one quarter-section, in such townships and ranges as the general assembly aforesaid may select, on any of the unappropriated lands of the United States within the said State.

Fifth. That the two entire townships of land which have already been located by virtue of the act entitled "An act concerning a seminary of learning in the Territory of Arkansas," approved the second of March, one thousand eight hundred and twenty-seven, are hereby vested in, and confirmed to, the general assembly of the said State, to be appropriated solely to the use of such seminary by the general assembly: *Provided*, That the five foregoing propositions herein offered are on the condition that the general assembly or legislature of the said State, by virtue of the powers conferred upon it by the convention which framed the constitution of the said State, shall provide, by an ordinance irrevocable without the consent of the United States, that the said general assembly of said State shall never interfere with the primary disposal of the soil within the same by the United States, nor with any regulations Congress may find necessary for securing the title in such soil to the *bona-fide* purchasers thereof; and that no tax shall be imposed on lands the property of the United States; and that in no case shall non-resident proprietors be taxed higher than residents; and that the bounty-lands granted, or hereafter to be granted, for military services during the late war, shall, whilst they continue to be held by the patentees or their heirs, remain exempt from any tax laid by order or under the authority of the State, whether for State, county, township, or any other purpose, for the term of three years from and after the date of the patents respectively.

Approved, June 23, 1836.

ORDINANCE OF ACCEPTANCE BY ARKANSAS—1836

Ordinance and acceptance of compact by the general assembly of the State of Arkansas

Be it ordained by the general assembly of the State of Arkansas, By virtue of the authority vested in said general assembly by the provisions of the ordinance adopted by the convention of delegates assembled at Little Rock, for the purpose of forming a constitution and system of government for said State, that the propositions set forth

in "An act supplementary to the act entitled 'An act for the admission of the State of Arkansas into the Union, and to provide for the due execution of the laws of the United States within the same, and for other purposes,'" be, and the same are hereby, freely accepted, ratified, and irrevocably confirmed, as articles of compact and union between the State of Arkansas and the United States.

And be it further ordained by the authority aforesaid, That the general assembly of the State of Arkansas shall never interfere, without the consent of the United States, with the primary disposal of the soil within said State, owned by the United States, nor with any regulations Congress may find necessary for securing the title in such soil to the *bona-fide* purchasers thereof; and that no tax shall be imposed on lands the property of the United States; and that in no case shall non-resident proprietors be taxed higher than resident; and that the bounty-lands granted, or hereafter to be granted, for military services during the late war, shall, while they continue to be held by the patentees or their heirs, remain exempt from any tax laid by order, or under the authority, of the State, whether for State, county, township, or any other purpose, for the term of three years from and after the date of the patents respectively.

Approved, October 18, 1836.

CONSTITUTION OF ARKANSAS—1836 *[a]

We, the people of the Territory of Arkansas, by our representatives in convention assembled, at Little Rock, on Monday, the 4th day of January, A. D. 1836, and of the Independence of the United States the sixtieth year, having the right of admission into the Union as one of the United States of America, consistent with the Federal Constitution, and by virtue of the treaty of cession, by France to the United States, of the Province of Louisiana, in order to secure to ourselves and our posterity the enjoyment of all the rights of life, liberty, and property, and the free pursuit of happiness, do mutually agree with each other to form ourselves into a free and independent State, by the name and style of "The State of Arkansas," and do ordain and establish the following constitution for the government thereof:

ARTICLE I

OF BOUNDARIES

We do declare and establish, ratify and confirm, the following as the permanent boundaries of said State of Arkansas, that is to say: Beginning in the middle of the main channel of the Mississippi river,

* Verified by Judge U. M. Rose's text in his edition of the constitutions of Arkansas: The Constitutions of the State of Arkansas Framed and Adopted By the Convention Which Assembled at Little Rock, July 14, 1874, and Ratified By the People of State at the Election Held October 13th, 1874. With an Appendix, Containing the Constitutions of the United States, and the Constitutions of Arkansas of 1836, 1861, 1864, and 1868. With Notes by U. M. Rose. Little Rock, Ark.: Press Printing Company, 1891. pp. 175–205. Also from the text of the constitution as amended, from the Biennial Report of the Secretary of State of Arkansas, Hon. O. C. Ludwig. Little Rock: 1906. pp. 17–68.

[a] This constitution was framed by a convention which met January 4, 1836, and adjourned January 30, 1836. It was not submitted to the people.

on the parallel of thirty-six degrees north latitude; running from thence west with the said parallel of latitude to the Saint Francis river; thence up the middle of the main channel of said river to the parallel of thirty-six degrees, thirty minutes north; from thence west to the southwest corner of the State of Missouri; and from thence to be bounded on the west, to the north bank of Red river, as by acts of Congress and treaties heretofore defining the western limits of the Territory of Arkansas; and to be bounded on the south side of Red river by the Mexican boundary-line to the northwest corner of the State of Louisiana; thence east with the Louisiana State line to the middle of the main channel of the Mississippi river; thence up the middle of the main channel of said river to the thirty-sixth degree of north latitude, the point of beginning.

Article II

DECLARATION OF RIGHTS

That the great and essential principles of liberty and free government may be recognized and unalterably established, we declare:

Section 1. That all freemen, when they form a social compact, are equal, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty; of acquiring, possessing and protecting property and reputation; and of pursuing their own happiness.

Sec. 2. That all power is inherent in the people; and all free governments are founded on their authority, and instituted for their peace, safety and happiness. For the advancement of these ends, they have, at all times, an unqualified right to alter, reform or abolish their government, in such manner as they may think proper.

Sec. 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; and no man can of right be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent. That no human authority can, in any case whatever, interfere with the rights of conscience; and that no preference shall ever be given to any religious establishment or mode of worship.

Sec. 4. That the civil rights, privileges or capacities of any citizen shall in no wise be diminished or enlarged on account of his religion.

Sec. 5. That all elections shall be free and equal.

Sec. 6. That the right of trial by jury shall remain inviolate.

Sec. 7. That printing-presses shall be free to every person; and no law shall ever be made to restrain the rights thereof. The free communication of thoughts and opinions is one of the invaluable rights of man; and every citizen may freely speak, write and print on any subject—being responsible for the abuse of that liberty.

Sec. 8. In prosecutions for the publication of papers investigating the official conduct of officers or men in public capacity, or where the matter published is proper for public information, the truth thereof may be given in evidence: and in all indictments for libels, the jury shall have the right to determine the law and the facts.

Sec. 9. That the people shall be secure in their persons, houses, papers and possessions, from unreasonable searches and seizures; and

that general warrants, whereby any officer may be commanded to search suspected places, without evidence of the fact committed, or to seize any person or persons not named, whose offences are not particularly described and supported by evidence, are dangerous to liberty, and shall not be granted.

SEC. 10. That no freeman shall be taken or imprisoned, or disseized of his freehold, liberties or privileges, or outlawed or exiled, or in any manner destroyed or deprived of his life, liberty or property, but by the judgment of his peers, or the law of the land.

SEC. 11. That in all criminal prosecutions the accused hath a right to be heard by himself and counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face; to have compulsory process for obtaining witnesses in his favor; and in prosecutions by indictment or presentment, a speedy public trial by an impartial jury of the county or district in which the crime shall have been committed; and shall not be compelled to give evidence against himself.

SEC. 12. That no person shall, for the same offence, be twice put in jeopardy of life or limb.

SEC. 13. That all penalties shall be reasonable, and proportioned to the nature of the offence.

SEC. 14. That no man shall be put to answer any criminal charge, but by presentment, indictment or impeachment.

SEC. 15. That no conviction shall work corruption of blood or forfeiture of estate.

SEC. 16. That all prisoners shall be bailable by sufficient securities, unless in capital offences, where the proof is evident or the presumption great, and the privilege of the writ of *habeas corpus* shall not be suspended, unless where, in case of rebellion or invasion, the public safety may require it.

SEC. 17. That excessive bail shall in no case be required, nor excessive fines imposed.

SEC. 18. That no *ex post facto* law, or any law impairing the obligation of contracts, shall ever be made.

SEC. 19. That perpetuities and monopolies are contrary to the genius of a republic, and shall not be allowed; nor shall any hereditary emolument, privileges or honors ever be granted or conferred in this State.

SEC. 20. That the citizens have a right in a peaceable manner to assemble together for their common good, to instruct their representatives, and to apply to those invested with the power of the government for redress of grievances, or other proper purposes, by address or remonstrance.

SEC. 21. That the free white men of this State shall have a right to keep and to bear arms for their common defence.

SEC. 22. That no soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor in time of war, but in a manner prescribed by law.

SEC. 23. The military shall be kept in strict subordination to the civil power.

SEC. 24. This enumeration of rights shall not be construed to deny or disparage others retained by the people; and, to guard against any

encroachments on the rights herein retained, or any transgression of any of the higher powers herein delegated, we declare that everything in this article is excepted out of the general powers of the government, and shall forever remain inviolate; and that all laws contrary thereto, or to the other provisions herein contained, shall be void.

Article III

OF DEPARTMENTS

Section 1. The powers of the government of the State of Arkansas shall be divided into three distinct departments, each of them to be confided to a separate body of magistracy, to wit: those which are legislative, to one; those which are executive, to another; and those which are judicial, to another.

Sec. 2. No person, or collection of persons, being of one of those departments, shall exercise any power belonging to either of the others; except in the instances hereinafter expressly directed or permitted.

Article IV

LEGISLATIVE DEPARTMENT

Section 1. The legislative power of this State shall be vested in a general assembly, which shall consist of a senate, and a house of representatives.

QUALIFICATIONS OF ELECTORS

Sec. 2. Every free white male citizen of the United States, who shall have attained the age of twenty-one years, and who shall have been a citizen of this State six months, shall be deemed a qualified elector, and be entitled to vote in the county or district where he actually resides, for each and every office made elective under this State, or under the United States: *Provided*, That no soldier, seaman, or marine, in the Army or Navy of the United States, shall be entitled to vote at any election within this State.

TIME OF CHOOSING REPRESENTATIVES

Sec. 3. The House of Representatives shall consist of members to be chosen every second year, by the qualified electors of the several counties.

QUALIFICATIONS OF A REPRESENTATIVE

Sec. 4. No person shall be a member of the House of Representatives, who shall not have attained the age of twenty-five years; who shall not be a free white male citizen of the United States; who shall not have been an inhabitant of this State one year; and who shall not, at the time of his election, have an actual residence in the county he may be chosen to represent.

QUALIFICATIONS OF A SENATOR

SEC. 5. The Senate shall consist of members to be chosen every four years, by the qualified electors of the several districts.

SEC. 6. No person shall be a Senator, who shall not have attained the age of thirty years; who shall not be a free white male citizen of the United States; who shall not have been an inhabitant of this State one year; and who shall not, at the time of his election, have an actual residence in the district he may be chosen to represent.

MEETING OF THE GENERAL ASSEMBLY

SEC. 7. The General Assembly shall meet every two years, on the first Monday of November, at the seat of government, until altered by law.

THE MODE OF ELECTION, AND TIME, AND PRIVILEGE OF ELECTORS

SEC. 8. All general elections shall be *viva voce*, until otherwise directed by law, and shall commence and be holden every two years, on the first Monday in October, until altered by law; and the electors in all cases except in cases of treason, felony and breach of the peace, shall be privileged from arrest during their attendance on elections, and in going to and returning therefrom.

DUTY OF GOVERNOR

SEC. 9. The Governor shall issue writs of election to fill such vacancies as shall occur in either House of the General Assembly.

SEC. 10. No Judge of the Supreme, Circuit or Inferior Courts of law or equity, Secretary of State, Attorney for the State, State Auditor or Treasurer, Register or Recorder, Clerk of any Court of Record, Sheriff, Coroner, Member of Congress, nor any other person holding any lucrative office under the United States or this State, (militia officers, Justices of the Peace, Postmasters and Judges of the County Courts excepted,) shall be eligible to a seat in either House of the General Assembly.

SEC. 11. No person who now is, or shall be hereafter, a collector or holder of public money, nor any assistant or deputy of such holder or collector of public money, shall be eligible to a seat in either House of the General Assembly, nor to any office of profit or trust, until he shall have accounted for and paid over all sums for which he may have been liable.

SEC. 12. The General Assembly shall exclude from every office of trust or profit, and from the right of suffrage, within this State, all persons convicted of bribery, perjury, or other infamous crime.

SEC. 13. Every person who shall have been convicted of directly or indirectly giving or offering any bribe, to procure his election or appointment, shall be disqualified from holding any office of trust or profit under this State; and any person who shall give or offer any bribe to procure the election or appointment of any person, shall, on conviction thereof, be disqualified from being an elector, or from holding office of trust or profit under this State.

SEC. 14. No Senator or Representative shall, during the term for which he shall have been elected, be appointed to any civil office under this State, which shall have been created, or the emoluments of which shall have been increased, during his continuance of office, except to such office as shall be filled by the election of the people.

SEC. 15. Each House shall appoint its own officers, and shall judge of the qualifications, returns and elections of its own members. Two-thirds of each House shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner, and under such penalties, as each House shall provide.

SEC. 16. Each House may determine the rule of its proceedings, punish its own members for disorderly behavior, and, with the concurrence of two-thirds of the members elected, expel a member; but no member shall be expelled a second time for the same offence. They shall each, from time to time, publish a journal of their proceedings, except such parts as may in their opinion require secrecy; and the yeas and nays upon any question shall be entered on the journal, at the desire of any five members.

SEC. 17. The door of each House when in session or in committee of the whole, shall be kept open, except in cases which may require secrecy; and each House may punish by fine and imprisonment, any person, not a member, who shall be guilty of disrespect to the House, by any disorderly or contemptuous behavior in their presence, during their session; but such imprisonment shall not extend beyond the final adjournment of that session.

SEC. 18. Bills may originate in either House, and be amended or rejected in the other; and every bill shall be read on three different days in each House, unless two-thirds of the House where the same is pending shall dispense with the rules. And every bill having passed both Houses, shall be signed by the President of the Senate and the Speaker of the House of Representatives.

SEC. 19. Whenever an officer, civil or military, shall be appointed by the joint or concurrent vote of both Houses, or by the separate vote of either House of the General Assembly, the vote shall be taken *viva voce*, and entered on the journal.

SEC. 20. The Senators and Representatives shall, in all cases except treason, felony or breach of the peace, be privileged from arrest, during the session of the General Assembly, and for fifteen days before the commencement and after the termination of each session; and for any speech or debate in either House, they shall not be questioned in any other place.

SEC. 21. The members of the General Assembly shall severally receive, from the public treasury, compensation for their services, which may be increased or diminished; but no alteration of such compensation of members shall take effect during the session at which it is made.

THE MANNER OF BRINGING SUITS AGAINST THE STATE

SEC. 22. The General Assembly shall direct by law, in what courts, and in what manner suits may be commenced against the State.

SEC. 23. They shall have power to pass all laws that are necessary

to prohibit the introduction into this State of any slave or slaves, who may have committed any high crime, in any other State or Territory.

SEC. 24. The General Assembly shall not have power to pass any bill of divorce; but may prescribe by law the manner in which such cases shall be investigated in the courts of justice and divorces granted.

SEC. 25. The general assembly shall have power to prohibit the introduction of any slave or slaves, for the purpose of speculation, or as an article of trade and merchandise; to oblige the owner of any slave or slaves to treat them with humanity: and, in the prosecution of slaves for any crime, they shall not be deprived of an impartial jury; and any slave who shall be convicted of a capital offence, shall suffer the same degree of punishment as would be inflicted on a free white person, and no other; and courts of justice, before whom slaves shall be tried, shall assign them counsel for their defence.

SEC. 26. The governor, secretary of state, auditor, treasurer, and all the judges of the supreme, circuit and inferior courts of law and equity, and the prosecuting attorneys for the State, shall be liable to impeachment, for any malpractice or misdemeanor in office; but judgment in such cases shall not extend further than removal from office, and disqualification to hold any office of honor, trust or profit under this State: the party impeached, whether convicted or acquitted, shall nevertheless be liable to be indicted, tried and punished, according to law.

SEC. 27. The house of representatives shall have the sole power of impeachment, and all impeachments shall be tried by the senate; and when sitting for that purpose, the senators shall be on oath or affirmation to do justice according to law and evidence. When the governor shall be tried, the chief justice of the supreme court shall preside; and no person shall be convicted without the concurrence of two-thirds of all the senators elected: and for reasonable cause, which shall not be sufficient ground of impeachment, the governor shall, on the joint address of two-thirds of each branch of the legislature, remove from office the judges of the supreme and inferior courts: *Provided*, The cause or causes of removal be spread on the journals, and the party charged be notified of the same, and heard by himself and counsel, before the vote is finally taken and decided.

SEC. 28. The appointment of all officers, not otherwise directed by this constitution, shall be made in such manner as may be prescribed by law: and all officers, both civil and military, acting under the authority of this State, shall, before entry on the duties of their respective offices, take an oath or affirmation to support the Constitution of the United States and of this State, and to demean themselves faithfully in office.

SEC. 29. No county now established by law, shall ever be reduced, by the establishment of any new county or counties, to less than nine hundred square miles, nor to a less population than its ratio of representation in the house of representatives; nor shall any county be hereafter established, which shall contain less than nine hundred square miles, (except Washington County, which may be reduced to six hundred square miles,) or a less population than would entitle each county to a member in the house of representatives.

SEC. 30. The style of the laws of this State shall be—"*Be it enacted by the general assembly of the State of Arkansas.*"

SEC. 31. The State shall from time to time be divided into convenient districts, in such manner that the senate shall be based upon the free white male inhabitants of the State, each senator representing an equal number, as nearly as practicable; and until the first enumeration of the inhabitants shall be taken, the districts shall be arranged as follows:

The county of Washington shall compose one district, and elect two senators;

The counties of Carroll, Searcy and Izard shall compose one district, and elect one senator.

The counties of Independence and Jackson shall compose one district, and elect one senator.

The counties of Lawrence and Randolph shall compose one district, and elect one senator.

The counties of Johnson and Pope shall compose one district, and elect one senator.

The counties of Crawford and Scott shall compose one district, and elect one senator.

The counties of Conway and Van Buren shall compose one district, and elect one senator.

The counties of Pulaski, White and Saline shall compose one district, an elect one senator.

The counties of Hot Spring, Clark and Pike shall compose one district, and elect one senator.

The counties of Hempstead and Lafayette shall compose one district, and elect one senator.

The counties of Sevier and Miller shall compose one district, and elect one senator.

The counties of Chicot and Union shall compose one district, and elect one senator.

The counties of Arkansas and Jefferson shall compose one district, and elect one senator.

The counties of Phillips and Monroe shall compose one district, and elect one senator.

The counties of Saint Francis and Greene shall compose one district, and elect one senator.

The counties of Crittenden and Mississippi shall compose one district, and elect one senator.

And the senate shall never consist of less than seventeen nor more than thirty-three members; and as soon as the senate shall meet after the first election to be held under this constitution, they shall cause the senators to be divided by lot into two classes—nine of the first class and eight of the second; and the seats of the first class shall be vacated at the end of two years from the time of their election, and the seats of the second class at the end of four years from the time of their election; in order that one class of the senators may be elected every two years.

SEC. 32. An enumeration of the inhabitants of the State shall be taken under the direction of the general assembly, on the first day of January, one thousand eight hundred and thirty-eight, and at the end of every four years thereafter; and the general assembly shall,

at the first session after the return of every enumeration, so alter and arrange the senatorial districts that each district shall contain, as nearly as practicable, an equal number of free white male inhabitants: *Provided*, That Washington County, as long as its population shall justify the same, may, according to its numbers, elect more than one senator; and such districts shall then remain unaltered, until the return of another enumeration, and shall at all times consist of contiguous territory; and no county shall be divided in the formation of a senatorial district.

SEC. 33. The ratio of representation in the senate, shall be fifteen hundred free white male inhabitants to each senator, until the senators amount to twenty-five in number; and then they shall be equally apportioned, upon the same basis, throughout the State, in such ratio as the increased numbers of free white male inhabitants may require, without increasing the senators to a greater number than twenty-five, until the population of the State amounts to five hundred thousand souls; and when an increase of senators takes place, they shall, from time to time, be divided by lot, and classed as prescribed above.

SEC. 34. The house of representatives shall consist of not less than fifty-four, nor more than one hundred representatives, to be apportioned among the several counties in this State, according to the number of free white male inhabitants therein, taking five hundred as the ratio, until the number of representatives amounts to seventy-five; and when they amount to seventy-five, they shall not be further increased until the population of the State amounts to five hundred thousand souls: *Provided*, That each county now organized shall, although its population may not give the existing ratio, always be entitled to one representative; and until the first enumeration shall be taken, the representatives shall be apportioned among the several counties, as follows:

The county of Washington shall elect six representatives.
The county of Scott shall elect one representative.
The county of Johnson shall elect two representatives.
The county of Pope shall elect two representatives.
The county of Conway shall elect one representative.
The county of Van Buren shall elect one representative.
The county of Carroll shall elect two representatives.
The county of Searcy shall elect one representative.
The county of Izard shall elect one representative.
The county of Independence shall elect two representatives.
The county of Crawford shall elect three representatives.
The county of Jackson shall elect one representative.
The county of Lawrence shall elect two representatives.
The county of Randolph shall elect two representatives.
The county of White shall elect one representative.
The county of Pulaski shall elect two representatives.
The county of Saline shall elect one representative.
The county of Hot Spring shall elect one representative.
The county of Clarke shall elect one representative.
The county of Saint Francis shall elect two representatives.
The county of Pike shall elect one representative.
The county of Hempstead shall elect two representatives.
The county of Miller shall elect one representative.

The county of Sevier shall elect one representative.
The county of Lafayette shall elect one representative.
The county of Union shall elect one representative.
The county of Arkansas shall elect two representatives.
The county of Jefferson shall elect one representative.
The county of Monroe shall elect one representative.
The county of Phillips shall elect two representatives.
The county of Greene shall elect one representative.
The county of Crittenden shall elect two representatives.
The county of Mississippi shall elect one representative.
The county of Chicot shall elect two representatives.

And at the first session of the general assembly after the return of every enumeration, the representation shall be equally divided and re-apportioned among the several counties, according to the number of free white males in each county, as above prescribed.

MODE OF AMENDING THE CONSTITUTION

Sec. 35. The General Assembly may at any time propose such amendments to this Constitution as two-thirds of each house shall deem expedient, which shall be published in all the newspapers published in this State, three several times, at least twelve months before the next general election; and if, at the first session of the General assembly after such general election, two-thirds of each house shall, by yeas and nays, ratify such proposed amendments, they shall be valid to all intents and purposes, as parts of this constitution: *Provided*, That such proposed amendments shall be read on three several days, in each house, as well when the same are proposed, as when they are finally ratified.

Article V

EXECUTIVE DEPARTMENT

Section 1. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled "the governor of the State of Arkansas."

Sec. 2. The governor shall be elected by the qualified electors, at the time and places where they shall respectively vote for representatives.

Sec. 3. The returns of every election for governor shall be sealed up and transmitted to the speaker of the house of representatives, who shall, during the first week of the session, open and publish them in the presence of both houses of the general assembly. The person having the highest number of votes shall be the Governor; but if two or more shall be equal and highest in votes, one of them shall be chosen governor by the joint vote of both houses. Contested elections for governor shall be determined by both Houses of the General Assembly, in such manner as shall be prescribed by law.

Sec. 4. The governor shall hold his office for the term of four years from the time of his installation, and until his successor shall be duly qualified; but he shall not be eligible for more than eight years in any term of twelve years. He shall be at least thirty years of age, a native-born citizen of Arkansas, or a native-born citizen of

the United States, or a resident of Arkansas ten years previous to the adoption of this constitution, if not a native of the United States; and shall have been a resident of the same at least four years next before his election.

SEC. 5. He shall, at stated times, receive a compensation for his services, which shall not be increased or diminished during the term for which he shall have been elected; nor shall he receive, within that period, any other emolument from the United States, or any one of them, or from any foreign power.

SEC. 6. He shall be commander-in-chief of the army of this State, and of the militia thereof, except when they shall be called into the service of the United States.

SEC. 7. He may require any information, in writing, from the officers of the executive department, on any subject relating to the duties of their respective offices.

SEC. 8. He may, by proclamation, on extraordinary occasions, convene the general assembly, at the seat of government, or at a different place, if that shall have become, since their last adjournment, dangerous from an enemy or from contagious diseases. In case of disagreement between the two houses with respect to the time of adjournment, he may adjourn them to such time as he shall think proper, not beyond the day of the next meeting of the general assembly.

SEC. 9. He shall, from time to time, give to the general assembly information of the state of the government, and recommended to their consideration such measures as he may deem expedient.

SEC. 10. He shall take care that the laws be faithfully executed.

SEC. 11. In all criminal and penal cases, except in those of treason and impeachment, he shall have power to grant pardons after conviction, and remit fines and forfeitures, under such rules and regulations as shall be prescribed by law. In cases of treason, he shall have power, by and with the advice and consent of the senate, to grant reprieves and pardons; and he may, in the recess of the senate, respite the sentence until the end of the next session of the general assembly.

SEC. 12. There shall be a seal of this State, which shall be kept by the governor, and used by him officially; and the present seal of the Territory shall be the seal of the State, until otherwise directed by the general assembly.

SEC. 13. All commissions shall be in the name, and by the authority of the State of Arkansas, be sealed with the seal of the State, signed by the governor, and attested by the secretary of state.

SEC. 14. There shall be a secretary of state, elected by a joint vote of both houses of the general assembly, who shall continue in office during the term of four years, and until his successor in office be duly qualified. He shall keep a fair register of all the official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes and vouchers relative thereto, before the general assembly; and shall perform such other duties as may be required by law.

SEC. 15. Vacancies that may happen in offices, the election to which is vested in the general assembly, shall be filled by the governor during the recess of the general assembly, by granting commissions, which shall expire at the end of the next session.

SEC. 16. Every bill which shall have passed both houses, shall be presented to the governor. If he approve it, he shall sign it; but if

he shall not approve it, he shall return it, with his objections, to the house in which it shall have originated, who shall enter his objections at large upon their journals, and proceed to reconsider it. If, after such reconsideration, a majority of the whole number elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which, likewise, it shall be reconsidered; and if approved by a majority of the whole number elected to that house, it shall be a law; but in such cases, the votes of both houses shall be determined by yeas and nays; and the names of the persons voting for or against the bill, shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within three days, Sundays excepted, after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the General Assembly, by their adjournment, prevent its return; in such cases it shall not be a law.

Sec. 17. Every order or resolution, to which the concurrence of both Houses may be necessary, except on questions of adjournment, shall be presented to the Governor, and before it shall take effect, be approved by him, or being disapproved, shall be repassed by both Houses, according to the rules and limitations prescribed in the case of a bill.

Sec. 18. In case of the impeachment of the Governor, his removal from office, death, refusal to qualify, resignation, or absence from the State, the President of the Senate shall exercise all the authority appertaining to the office of Governor, until another Governor shall have been elected and qualified, or until the Governor, absent or impeached, shall return or be acquitted.

Sec. 19. If, during the vacancy of the office of Governor, the President of the Senate shall be impeached, removed from office, refuse to qualify, resign, die, or be absent from the State, the Speaker of the House of Representatives shall, in like manner, administer the government.

Sec. 20. The President of the Senate, and Speaker of the House of Representatives, during the time they respectively administer the government, shall receive the same compensation which the Governor would have received, had he been employed in the duties of his office.

Sec. 21. Whenever the office of Governor shall have become vacant, by death, resignation, removal from office, or otherwise, provided such vacancy shall not happen within eighteen months of the end of the term for which the late Governor shall have been elected, the President of the Senate, or Speaker of the House of Representatives, as the case may be, exercising the powers of Governor for the time being, shall immediately cause an election to be held to fill such vacancy, giving, by proclamation, sixty days' previous notice thereof, which election shall be governed by the same rules prescribed for general elections of Governor, as far as applicable; the returns shall be made to the Secretary of State, who in presence of the acting Governor, and Judges of the Supreme Court, or one of them at least, shall compare them, and together with said acting Governor and Judges, declare who is elected; and if there be a contested election, it shall be decided by the Judges of the Supreme Court, in manner to be prescribed by law.

Sec. 22. The Governor shall always reside at the seat of government.

Sec. 23. No person shall hold the office of Governor and any other office or commission, civil or military, either in this State, or under any State, or the United States, or any other power, at one and the same time.

Sec. 24. There shall be elected, by the joint vote of both Houses of the General Assembly, an Auditor and Treasurer for this State, who shall hold their offices for the term of two years, and until their respective successors are elected and qualified, unless sooner removed; and shall keep their respective offices at the seat of government, and perform such duties as shall be prescribed by law. And in case of vacancy, by death, resignation, or otherwise, such vacancy shall be filled by the Governor, as in other cases.

MILITIA

Section 1. The militia of this State shall be divided into convenient divisions, brigades, regiments and companies, and officers of corresponding titles and rank elected to command them, conforming, as nearly as practicable, to the general regulations of the Army of the United States.

Sec. 2. Major-generals shall be elected by the Brigadier-Generals and field officers of their respective divisions; Brigadier-Generals shall be elected by the field officers and commissioned company officers of their respective brigades; field officers shall be elected by the officers and privates of their respective regiments; and Captains and Subaltern officers shall be elected by those subject to military duty in their respective companies.

Sec. 3. The Governor shall appoint the Adjutant-General and other members of his staff, and major-generals, brigadier-generals, and commanders of regiments, shall respectively appoint their own staff: and all commissioned officers may continue in office during good behavior; and staff officers during the same time, subject to be removed by the superior officer from whom they respectively derive their commissions.

Article VI

JUDICIAL DEPARTMENT

Section 1. The judicial power of this State shall be vested in one supreme court, in circuit courts, in county courts, and in justices of the peace; the general assembly may also vest such jurisdiction as may be deemed necessary in corporation courts, and when they deem it expedient, may establish courts of chancery.

Sec. 2. The supreme court shall be composed of three judges, one of whom shall be styled chief justice, any two of whom shall constitute a quorum, and the concurrence of any two of said judges shall, in every case, be necessary to a decision. The supreme court, except in cases otherwise directed by this constitution, shall have appellate jurisdiction only, which shall be co-extensive with the State, under such restrictions and regulations as may, from time to time, be prescribed by law; it shall have a general superintending control over all inferior and other courts of law and equity. It shall have power to issue writs of error and *supersedeas*, *certiorari* and *habeas corpus*, *mandamus* and *quo warranto*, and other remedial writs, and to hear

and determine the same. Said judges shall be conservators of the peace throughout the State. And shall severally have power to issue any of the aforesaid writs.

SEC. 3. The circuit courts shall have original jurisdiction over all criminal cases which shall not be otherwise provided for by law; and exclusive original jurisdiction of all crimes amounting to felony at the common law; and original jurisdiction of all civil cases which shall not be cognizable before justices of the peace, until otherwise directed by the general assembly; and original jurisdiction in all matters of contracts, where the sum in controversy is over one hundred dollars. It shall hold its terms at such place in each county as may be by law directed.

SEC. 4. The State shall be divided into convenient circuits, each to consist of not less than five nor more than seven counties, contiguous to each other, for each of which a judge shall be elected, who, during his continuance in office, shall reside and be a conservator of the peace within the circuit for which he shall have been elected.

SEC. 5. The circuit courts shall exercise a superintending control over the county courts, and over justices of the peace, in each county in their respective circuits; and shall have power to issue all the necessary writs to carry into effect their general and specific powers.

SEC. 6. Until the general assembly shall deem it expedient to establish courts of chancery, the circuit court shall have jurisdiction in matters of equity, subject to appeal to the supreme court, in such manner as may be prescribed by law.

SEC. 7. The general assembly shall, by joint vote of both houses, elect the judges of the supreme and circuit courts, a majority of the whole number in joint vote being necessary to a choice. The judges of the supreme court shall be at least thirty years of age; they shall hold their offices during the term of eight years from the date of their commissions. Immediately after such election, by the first general assembly, the president of the senate and speaker of the house of representatives shall proceed by lot to divide the judges into three classes. The commission of the first class shall expire at the end of four years; of the second class at the end of six years; and of the third class at the end of eight years: so that one-third of the whole number shall be chosen every four, six and eight years. The judges of the circuit court shall be at least twenty-five years of age, and shall be elected for the term of four years from the date of their commissions. The supreme court shall appoint its own clerk or clerks for the term of four years. The qualified voters of each county shall elect a clerk of the circuit court for their respective counties, who shall hold his office for the term of two years; and courts of chancery, if any be established, shall appoint their own clerks.

SEC. 8. The judges of the supreme and circuit courts shall, at stated times, receive a compensation for their services, to be ascertained by law, which shall not be diminished during the time for which they are elected. They shall not be allowed any fees or perquisites of office, nor hold any other office of trust or profit under this State or the United States. The State's Attorneys, and Clerks of the Supreme and Circuit Courts, and courts of chancery, if any such be established, shall receive for their services such salaries, fees, and perquisites of office, as shall be from time to time fixed by law.

SEC. 9. There shall be established in each county in the State, a Court to be holden by the Justices of the Peace and called the County Court, which shall have jurisdiction in all matters relating to county taxes, disbursements of money for county purposes, and in every other case that may be necessary to the internal improvement and local concerns of the respective counties.

SEC. 10. There shall be elected, by the Justices of the Peace of the respective counties, a Presiding Judge of the County Court, to be commissioned by the Governor, and hold his office for the term of two years, and until his successor is elected and qualified. He shall, in addition to the duties that may be required of him by law, as a Presiding Judge of the County Court, be a judge of the Court of Probate and have such jurisdiction in matters relative to the estates of deceased persons, executors, administrators and guardians, as may be prescribed by law, until otherwise directed by the General Assembly.

SEC. 11. The presiding judge of the County Court and Justices of the Peace shall receive for their services such compensation and fees as the General Assembly may from time to time by law direct.

SEC. 12. No judge shall preside on the trial of any cause, in the event of which he may be interested, or where either of the parties shall be connected with him by affinity or consanguinity within such degrees as may be prescribed by law, or in which he may have been of counsel, or have presided in any inferior court, except by consent of all the parties. In case all or any of the Judges of the Supreme Court shall be thus disqualified from presiding on any cause or causes, the Court or Judges thereof shall certify the same to the Governor of the State, and he shall immediately commission specially the requisite number of men, of law-knowledge, for the trial and determination thereof. The same course shall be pursued in the Circuit and other inferior courts, as prescribed in this section for cases in the Supreme Court. Judges of the Circuit Courts may temporarily exchange ceased persons, executors, administrators and guardians, as may be pointed out by law. Judges shall not charge juries with regard to matter of fact; but may state the testimony and declare the law.

SEC. 13. The General Assembly shall, by a joint vote of both Houses, elect an attorney for the State for each circuit established by law, who shall continue in office two years, and reside within the circuit for which he was elected at the time of and during his continuance in office. In all cases where an attorney for the State of any circuit fails to attend and prosecute according to law, the court shall have power to appoint an attorney *pro tempore*. The attorney for the circuit in which the Supreme Court may hold its terms, shall attend the Supreme Court and prosecute for the State.

SEC. 14. All writs and other process shall run in the name of the "*State of Arkansas*," and bear test and be signed by the Clerks of the respective courts from which they issue. Indictments shall conclude "against the peace and dignity of the State of Arkansas."

SEC. 15. The qualified voters residing in each township shall elect the Justices of the Peace for their respective townships. For every fifty voters there may be elected one Justice of the Peace: *Provided*, That each township, however small, shall have two justices of the peace. Justices of the Peace shall be elected for the term of two years, and shall be commissioned by the Governor, and reside in the townships for which they were elected, during their continuance in

the office. They shall have, individually, or two or more of them jointly, exclusive original jurisdiction in all matters of contract, except in actions of covenant, where the sum in controversy is of one hundred dollars and under. Justices of the Peace shall in no case have jurisdiction to try and determine any criminal case or penal offence against the State; but may sit as examining courts, and commit, discharge, or recognize to the court having jurisdiction, for further trial, of offenders against the peace. For the foregoing purposes they shall have power to issue all necessary process. They shall also have power to bind to keep the peace, or for good behavior.

Sec. 16. The qualified voters of each township shall elect one constable, for the term of two years, who shall, during his continuance in office, reside in the township for which he was elected. Incorporated towns may have a separate constable and a separate magistracy.

Sec. 17. The qualified voters of each county shall elect one sheriff, one coroner, one treasurer, and one county surveyor, for the term of two years. They shall be commissioned by the governor, reside in their respective counties during their continuance in office, and be disqualified for the office a second term, if it should appear that they or either of them are in default for any moneys collected by virtue of their respective offices.

Article VII

EDUCATION

Section 1. Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government—and diffusing the opportunities and advantages of education through the various parts of the State being highly conducive to this end—it shall be the duty of the general assembly to provide by law for the improvement of such lands as are or hereafter may be granted by the United States to this State for the use of schools, and to apply any funds fhich may be raised from such lands, or from any other source, to the accomplishment of the object for which they are or may be intended. The general assembly shall, from time to time, pass such laws as shall be calculated to encourage intellectual, scientific and agricultural improvement, by allowing rewards and immunities for the promotion and improvement of arts, science, commerce, manufactures and natural history; and countenance and encourage the principles of humanity, industry and morality.

EMANCIPATION OF SLAVES

Section 1. The general assembly shall have no power to pass laws for the emancipation of slaves, without the consent of the owners. They shall have no power to prevent emigrants to this State from bringing with them such persons as are deemed slaves by the laws of any one of the United States. They shall have power to pass laws to permit owners of slaves to emancipate them, saving the right of creditors, and preventing them from becoming a public charge. They shall have power to prevent slaves from being brought to this State as merchandise, and also to oblige the owners of slaves to treat them with humanity.

GENERAL PROVISIONS

SECTION 1. Treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

SEC. 2. No person who denies the being of a God, shall hold any office in the civil department of this State, nor be allowed his oath in any court.

SEC. 3. No money shall be drawn from the treasury but in consequence of an appropriation by law, nor shall any appropriation of money for the support of an army be made for a longer term than two years; and a regular statement and account of the receipts and expenditures of all public moneys shall be published with the promulgation of the laws.

SEC. 4. Absence on business of this State or of the United States, or on a visit or necessary private business, shall not cause a forfeiture of a residence once obtained.

SEC. 5. No lottery shall be authorized by this State, nor shall the sale of lottery tickets be allowed.

SEC. 6. Internal improvements shall be encouraged by the government of this State, and it shall be the duty of the General Assembly, as soon as may be, to make provisions by law for ascertaining the proper objects of improvement in relation to roads, canals and navigable waters; and it shall also be their duty to provide by law for an equal, systematic and economical application of the funds which may be appropriated to these objects.

SEC. 7. Returns for all elections for officers who are to be commissioned by the governor, and for members of the General Assembly, shall be made to the Secretary of State.

SEC. 8. Within five years after the adoption of this Constitution, the laws, civil and criminal, shall be revised, digested and arranged, and promulgated in such manner as the General Assembly may direct; and a like revision, digest and promulgation shall be made within every subsequent period of ten years.

SEC. 9. In the event of the annexation of any territory to this State, by a cession from the United States, laws may be passed extending to the inhabitants of such territory all the rights and privileges which may be required by the terms of such cession, anything in this Constitution to the contrary notwithstanding.

SEC. 10. The person of a debtor, except where there is strong presumption of fraud, shall neither be imprisoned nor continued in prison, after delivering up his estate for the benefit of his creditors, in such manner as may be prescribed by law.

REVENUE

SECTION 1. All revenue shall be raised by taxation, to be fixed by law.

SEC. 2. All property subject to taxation, shall be taxed according to its value—that value to be ascertained in such manner as the General Assembly shall direct; making the same equal and uniform throughout the State. No one species of property, from which a tax

may be collected, shall be taxed higher than another species of property, of equal value: *Provided*, The General Assembly shall have power to tax merchants, hawkers, peddlers, and privileges, in such manner as may from time to time be prescribed by law: *And provided further*, That no other or greater amount of revenue shall at any time be levied than required for the necessary expenses of the government, unless by a concurrence of two-thirds of both Houses of the General Assembly.

SEC. 3. No poll-tax shall be assessed for other than county purposes.

SEC. 4. No other or greater tax shall be levied on the productions or labor of the country, than may be required for expenses of inspection.

ESTABLISHMENT OF BANKS

SECTION 1. The General Assembly may incorporate one State bank, with such amount of capital as may be deemed necessary, and such number of branches as may be required for the public convenience, which shall become the repository of the funds belonging to or under the control of the State; and shall be required to loan them out throughout the State, and in each county, in proportion to representation. And they shall further have power to incorporate one other banking institution, calculated to aid and promote the great agricultural interests of the country; and the faith and credit of the State may be pledged to raise the funds necessary to carry into operation the two banks herein specified: *Provided*, Such security can be given by the individual stockholders as will guarantee the State against loss or injury.

SCHEDULE

SECTION 1. That no inconvenience may arise from the change of government, we declare that all writs, actions, prosecutions, judgments, claims and contracts of individuals and bodies corporate, shall continue as if no change had taken place; and all process which may be issued under the authority of the Territory of Arkansas, previous to the admission of Arkansas into the Union of the United States, shall be as valid as if issued in the name of the State.

SEC. 2. All laws now in force in the Territory of Arkansas, which are not repugnant to this constitution, shall remain in force until they expire by their own limitations, or be altered or repealed by the general assembly.

SEC. 3. All fines, penalties and escheats, accruing to the Territory of Arkansas, shall accrue to the use of the State.

SEC. 4. All recognizances heretofore taken, or which may be taken before the change of territorial to a permanent State government, shall remain valid, and shall pass over to, and be prosecuted in the name of the State; and all bonds executed to the governor of the Territory, or to any other officer or court, in his or their official capacity, shall pass over to the governor or State authority, and their successors in office, for the uses therein respectively expressed; and may be sued for and recovered accordingly. All criminal prosecutions and penal actions which may have arisen, or which may arise, before the change from a territorial to a State government, and which shall then be pending, shall be prosecuted to judgment and

execution in the name of the State. All actions at law, which now are, or may be pending, in any of the courts of record in the Territory of Arkansas, may be commenced in, or transferred to any court of record of the State which shall have jurisdiction of the subject-matter thereof; and all suits in equity may, in like manner, be commenced in, or transferred to, the court having chancery jurisdiction.

SEC. 5. All officers, civil and military, now holding commissions under authority of the United States, or of the Territory of Arkansas, shall continue to hold and exercise their respective offices until they shall be superseded under the authority of the State.

SEC. 6. The first session of the general assembly of the State of Arkansas shall be held at the city of Little Rock, which shall be and remain the seat of government until otherwise provided for by law.

SEC. 7. Elections shall be held at the several precincts, on the first Monday of August next, for a governor; also, one Representative to the Congress of the United States; also, for Senators and representatives to the next general assembly, clerks of the circuit and county courts, sheriffs, coroners, county surveyors and treasurers, justices of the peace and constables.

SEC. 8. The next general assembly shall be holden on the second Monday of September next.

SEC. 9. The election shall be conducted according to the existing laws of the Territory of Arkansas; and the returns of all township elections held in pursuance thereof, shall be made to the clerks of the proper counties, within five days after the day of election. The clerks of the circuit courts of the several counties shall immediately thereafter certify the returns of the election of governor, and transmit the same to the speaker of the house of representatives, at the seat of government, in such time that they may be received on the second Monday of September next. As soon as the general assembly shall be organized, the speaker of the house of representatives and the president of the senate shall, in the presence of both houses, examine the returns, and declare who is duly elected to fill that office; and if any two or more persons shall have an equal number of votes, and a higher number than any other person, the general assembly shall determine the election by a joint vote of both houses; and the returns of the election for member to Congress shall be made to the secretary of state, within thirty days after the day of election.

SEC. 10. The oaths of office may be administered by any judge or justice of the peace, until the general assembly shall otherwise direct.

Done in convention, at Little Rock, in the State of Arkansas, the thirtieth day of January, in the year of our Lord, one thousand eight hundred and thirty-six, and in the sixtieth year of the Independence of the United States of America.

JOHN WILSON, *President.*

CHARLES P. BERTRAND, *Secretary.*

AMENDMENTS TO THE CONSTITUTION OF 1836

(Ratified November 17, 1846)

ARTICLE I. No bank or banking institution shall be hereafter incorporated, or established in this State.

ART. II. The general assembly shall have power to compel the judges of the circuit courts to interchange circuits either temporarily or permanently, under such regulationns as may be provided by law.

ART. III. The general assembly shall have power to confer such jurisdiction as it may from time to time deem proper, on justices of the peace in all matters of contracts, covenants, and in actions for the recovery of fines and forfeitures, when the amount claimed does not exceed one hundred dollars, and in actions and prosecutions for assault and battery, and other penal offences, less than felony, which may be punishable by fine only.

ART. IV. Judges of the supreme and circuit courts, clerks of the supreme and circuit courts, attorneys for the State, sheriffs, coroners, county treasurers, justices of the peace, constables, and all other officers whose term is fixed by the constitution to a specific number of years, shall hold their respective offices for the term now specified, and until their successors are elected and qualified.

(Ratified November 24, 1848)

ART. V. That the qualified voters of each judicial circuit in the State of Arkansas, shall elect their circuit judge.

ART. VI. That the qualified voters of each judicial circuit shall elect their prosecuting attorney for the State.

ART. VII. That the qualified voters of each county shall elect a county and probate judge.

ART. VIII. That no member of the general assembly shall be elected to any office within the gift of the general assembly during the term for which he shall have been elected.

ART. IX. That the general assembly of the State of Arkansas shall not be restricted, as to the number of counties that shall compose a judicial circuit in this State.

(Ratified December 2, 1850)

ART. X. That the words "except Washington County, which may be reduced to six hundred square miles," included in brackets in the XXIXth article,[a] be stricken out of said constitution.

(Ratified February 12, 1859)

ART. XI. That section 29 of article IV of the constitution of this State be so amended that no county now established by law shall be deemed or considered unconstitutional on account of its containing a less number of square miles than nine hundred.

(Ratified February 12, 1859)

ART. XII. The 22d article of the IVth article of the constitution is hereby stricken out and repealed, and instead thereof the following shall be inserted as an amendment to and part of the constitution: The State of Arkansas shall not be sued in any of its courts.

---

[a] There was no XXIXth article of the constitution of 1836. The senate journal of 1850 shows the amendment to have been of the 29th section of article IV.

CONSTITUTION OF ARKANSAS—1861

[A State convention, which met at Little Rock, passed an ordinance of secession on the 6th of May, 1861, and on the 22d amended the State constitution of 1836 by inserting the words "Confederate States" in place of "United States," with a few other unimportant changes. These amendments were not submitted to the people.]

CONSTITUTION OF ARKANSAS—1864 *[a]

We, the people of the State of Arkansas, having the right to establish for ourselves a Constitution in conformity with the Constitution of the United States of America, recognizing the legitimate consequences of the existing rebellion, do hereby declare the entire action of the late convention of the State of Arkansas, which assembled in the city of Little Rock, on the fourth day of March, one thousand eight hundred and sixty-one, was, and is, null and void, and is not now, and never has been binding and obligatory upon the people.

That all the action of the State of Arkansas under the authority of said convention, of its ordinances, or of its constitution, whether legislative, executive, judicial or military (except as hereinafter provided,) was, and is hereby declared null and void; *Provided*, That this ordinance shall not be so construed as to affect the rights of individuals, or change county boundaries, or county seats, or to make invalid the acts of justices of the peace, or other officers in their authority to administer oaths, or take and certify the acknowledgment of deeds of conveyance or other instruments of writing, or in the solemnization of marriages: *And provided further*, That no debt or liability of the State of Arkansas incurred by the action of said convention, or of the legislature or any department of the government under the authority of either, shall ever be recognized as obligatory.

And we, the people of the State of Arkansas, in order to establish therein a State government, loyal to the Government of the United States—to secure to ourselves and our posterity, the protection and blessings of the Federal Constitution, and the enjoyment of all the rights of liberty and the free pursuit of happiness, do agree to continue ourselves as a free and independent State, by the name and style of "the State of Arkansas," and do ordain and establish the following Constitution for the government thereof:

Article I

BOUNDARIES OF THE STATE

We do declare and establish, ratify and confirm the following as the permanent boundaries of the State of Arkansas, that is to say: Beginning in the middle of the Mississippi River, on the parallel of thirty-

* Verified by idem. See note to Constitution of Arkansas, 1836. Rose's edition, pp. 243–276. See also Appendix to present work.

[a] On the 4th of January, 1864, and subsequent to the occupation by the forces of the United States of a portion of the State, a mass convention of the people assembled at Little Rock, and on the 19th of January, 1864, proposed this Constitution to the people. It was ratified by 12,177 votes against 266 votes.

six degrees north latitude, to the Saint Francis River; thence up the middle of the main channel of said river, to the parallel of thirty-six degrees, thirty minutes, north, from the west to the southwest corner of the State of Missouri; and from thence to be bounded on the west to the north bank of Red River, as by acts of Congress of the United States, and the treaties heretofore defining the western limits of the Territory of Arkansas; and to be bounded on the south side of Red River by the boundary-line of the State of Texas, to the northwest corner of the State of Louisiana; thence east with the Louisiana State line, to the middle of the main channel of the Mississippi River; thence up the middle of the main channel of said river, to the thirty-sixth degree of north latitude, the point of beginning—these being the boundaries of the State of Arkansas as defined by the constitution thereof, adopted by a convention of the representatives of the people of said State, on the thirtieth day of January, anno Domini, eighteen hundred and thirty-six, being the same boundaries which limited the area of the Territory of Arkansas as it existed prior to that time.

Article II

declaration of rights

That the great and essential principles of liberty and free government may be unalterably established, we declare:

Section 1. That all men, when they form a social compact, are equal, and have certain inherent and indefeasible rights, amongst which are those of enjoying and defending life and liberty; of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness.

Sec. 2. That all power is inherent in the people; and all free governments are founded on their authority, and instituted for their peace and happiness. For the advancement of these ends, they have, at all times, an unqualified right to alter, reform, or abolish their government in such manner as they may think proper.

Sec. 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; and no man can, of right, be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent; that no human authority can, in any case whatever, interfere with the rights of conscience; and that no preference shall ever be given to any religious establishment or mode of worship.

Sec. 4. That the civil rights, privileges or capacities of any citizen shall in no wise be diminished or enlarged on account of his religion.

Sec. 5. That all elections shall be free and equal.

Sec. 6. That the right of trial by jury shall remain inviolate.

Sec. 7. That printing-presses shall be free to every person; and no law shall ever be made to restrain the rights thereof. The free communication of thoughts and opinions is one of the invaluable rights of man; and every citizen may freely speak, write and print, on any subject—being responsible for the abuse of that liberty.

Sec. 8. In prosecutions for the publication of papers investigating the official conduct of officers or men in public capacity, or where the matter published is proper for public information, the truth thereof

may be given in evidence, and in all indictments for libels, the jury shall have the right to determine the law and the facts.

Sec. 9. That the people shall be secure in their persons, houses, papers and possessions, from unreasonable search and seizures; and that general warrants, whereby any officer may be commanded to search suspected places without evidence of the fact committed, or to seize any person or persons not named, whose offences are not particularly described and supported by evidence, are dangerous to liberty, and shall not be granted.

Sec. 10. That no man shall be taken or imprisoned, or disseized of his freehold, liberties or privileges, or outlawed or exiled, or in any manner destroyed, or deprived of his life, liberty, or property, but by the judgment of his peers or the law of the land.

Sec. 11. That in all criminal prosecutions, the accused hath a right to be heard by himself and counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face; to have compulsory process for obtaining witnesses in his favor; and in prosecutions by indictment or presentment, a speedy public trial by an impartial jury of the county or district in which the crime may have been committed; and shall not be compelled to give evidence against himself.

Sec. 12. That no person shall for the same offence, be twice put in jeopardy of life or limb.

Sec. 13. That all penalties shall be reasonable, and proportioned to the nature of the offence.

Sec. 14. That no man shall be put to answer any criminal charge, but by presentment, indictment or impeachment, except as hereinafter provided.

Sec. 15. That no conviction shall work corruption of blood or forfeiture of estate, under any law of this State.

Sec. 16. That all prisoners shall be bailable by sufficient securities, unless in capital offences, where the proof is evident or the presumption great. And the privilege of the writ of *habeas corpus* shall not be suspended, unless where in case of rebellion or invasion the public safety may require it.

Sec. 17. That excessive bail shall in no case be required, nor excessive fines imposed.

Sec. 18. That no *ex post facto* law, or law impairing the obligations of contracts shall ever be made.

Sec. 19. That perpetuities and monopolies are contrary to the genius of a republic, and shall not be allowed; nor shall any hereditary emoluments, privileges or honors, ever be granted or conferred in this State.

Sec. 20. That the citizens have a right, in a peaceable manner, to assemble together for their common good to instruct their representatives, and to apply to those invested with the power of the government for redress of grievances or other proper purposes, by address or remonstrance.

Sec. 21. That the free white men of this State shall have a right to keep and to bear arms for their common defence.

Sec. 22. That no soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner prescribed by law.

SEC. 23. The military shall be kept in strict subordination to the civil power.

SEC. 24. This enumeration of rights shall not be construed to deny or disparage others retained by the people, and to guard against any encroachments on the rights herein retained, or any transgression of any of the higher powers herein delegated, we declare that everything in this article is excepted out of the general powers of the government, and shall forever remain inviolate; and that all laws contrary thereto, or to the other provisions herein contained, shall be void.

ARTICLE III

OF DEPARTMENTS

SECTION 1. The power of the government of the State of Arkansas shall be divided into three distinct departments, each of them to be confided to a separate body of magistracy, to wit: Those which are legislative to one; those which are executive to another; and those which are judicial to another.

SEC. 2. No person or collection of persons being of one of those departments, shall exercise any power belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

ARTICLE IV

LEGISLATIVE DEPARTMENT

SECTION 1. The legislative power of this State shall be invested in a general assembly, which shall consist of a senate and house of representatives.

QUALIFICATION OF ELECTORS

SEC. 2. Every free white male citizen of the United States who shall have attained the age of twenty-one years, and who shall have been a citizen of the State six months next preceding the election, shall be deemed a qualified elector, and be entitled to vote in the county or district where he actually resides, or in case of volunteer soldiers, within their several military departments or districts, for each and every office made elective under the State or under the United States: *Provided*, That no soldier, seaman or marine in the Regular Army or Navy of the United States shall be entitled to vote at any election within the State in time of peace: *And provided further*, That any one entitled to vote in this State in the county where he resides, may vote for the adoption or rejection of this constitution in any county in this State.

TIME OF CHOOSING REPRESENTATIVES

SEC. 3. The house of representatives shall consist of members to be chosen every second year by the qualified electors of the several counties.

QUALIFICATIONS OF A REPRESENTATIVE

SEC. 4. No person shall be a member of the house of representatives who shall not have attained the age of twenty-five years; who shall

not be a free male white citizen of the United States; who shall not have been an inhabitant of this State one year; and who shall not, at the time of his election, have an actual residence in the county he may be chosen to represent.

QUALIFICATIONS OF A SENATOR

SEC. 5. The senate shall consist of members to be chosen every four years, by the qualified electors of the several districts.

SEC. 6. No person shall be a senator who shall not have attained the age of twenty-five years; who shall not be a free, white male citizen of the United States; who shall not have been an inhabitant of this State one year; and who shall not, at the time of his election, have an actual residence in the district he may be chosen to represent.

SEC. 7. The general assembly shall meet every two years, on the first Monday in November, at the seat of government, until changed by law, except that the general assembly for the year 1864, shall meet on the second Monday in April of that year.

MODE OF ELECTION AND TIME AND PRIVILEGES OF ELECTORS

SEC. 8. All general elections shall be *viva voce* until otherwise directed by law, and commence and be holden every two years, on the first Monday in August, until altered by law, (except that) the first election under this constitution shall be held on the second Monday in March, 1864, and the electors in all cases, except in cases of treason, felony and breach of the peace, shall be privileged from arrest during their attendance on elections and in going to and returning therefrom.

DUTY OF GOVERNOR

SEC. 9. The governor shall issue writs of election to fill such vacancies as shall occur in either house of the general assembly.

SEC. 10. No judge of the supreme circuit; or inferior courts of law, or equity, Secretary of State, Attorney-General of the State, District Attorneys, State Auditor or Treasurer, register or recorder, clerk of any court of record, sheriff, coroner or member of Congress, nor any other person holding any lucrative office under the United States or this State, (militia officers, justices of the peace, postmasters and judges of the county courts excepted,) shall be eligible to a seat in either House of the General Assembly.

SEC. 11. No person who now is, or shall be hereafter, a collector or holder of public money, nor any assistant or deputy of such holder or collector of public money, shall be eligible to a seat in either House of the General Assembly, nor to any office of trust or profit; until he shall have accounted for and paid over all sums for which he may have been liable.

SEC. 12. The General Assembly shall exclude from every office of trust or profit, and from the right of sufferage within this State, all persons convicted of bribery, or perjury, or other infamous crime.

SEC. 13. Every person who shall have been convicted, either directly or indirectly, of giving or offering any bribe to procure his election or appointment, shall be disqualified from holding any office

of trust or profit under this State; and any person who shall give or offer any bribe to procure the election or appointment of any person shall, on conviction thereof, be disqualified from being an elector, or from holding office of trust or profit under this State.

SEC. 14. No senator or representative shall, during the term for which he shall have been elected, be appointed to any civil office under this State which shall have been created, or the emoluments of which shall have been increased during his continuance in office, except to such office as shall be filled by the election of the people.

SEC. 15. Each House shall appoint its own officers, and shall judge of the qualifications, returns and elections of its own members. Two-thirds of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as each house shall provide.

SEC. 16. Each house may determine the rules of its proceedings, punish its own members for disorderly behavior, and, with the concurrence of two-thirds of the members elected, expel a member; but no member shall be expelled a second time for the same offence. They shall each, from time to time, publish a journal of their proceedings, except such parts as may require secrecy; and the yeas and nays upon any question shall be entered on the journal at the desire of any five members.

SEC. 17. The door of each house, when in session or in committee of the whole, shall be kept open, except in cases which may require secrecy; and each house may punish, by fine and imprisonment, any person, not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in their presence during their session; but such imprisonment shall not extend beyond the final adjournment of that session.

SEC. 18. Bills may originate in either House, and be amended or rejected in the other, and every bill for an act shall be read three times before each house, twice at length, and in no case shall a bill be read more than twice on one day; and the vote upon the passage of any law shall, in all cases, be taken by yeas and nays, and by recording the same; and every bill having passed both houses, shall be signed by the president of the senate and the speaker of the house of representatives.

SEC. 19. Whenever an officer, civil or military, shall be appointed by the joint or concurrent vote of both houses, or by the separate vote of either house of the General Assembly, the vote shall be taken *viva voce*, and entered on the journal.

SEC. 20. The senators and representatives shall, in all cases except treason, felony or breach of the peace, be privileged from arrest during the session of the General Assembly, and for fifteen days before the commencement and after the termination of each session; and for any speech or debate in either House, they shall not be questioned in any other place.

SEC. 21. The members of the General Assembly shall severally receive from the public treasury, compensation for their services, which may be increased or diminished; but no alteration of such compensation of members shall take effect during the session at which it is made.

MANNER OF BRINGING SUITS AGAINST THE STATE

SEC. 22. The general assembly shall direct by law, in what courts, and in what manner suits may be commenced against the State.

SEC. 23. The general assembly shall not have power to pass any bill of divorce, but may prescribe by law the manner in which such cases may be investigated in the courts of justice, and divorces granted.

SEC. 24. The governor, lieutenant-governor, secretary of state, auditor, treasurer, and all judges of the supreme, circuit and inferior courts of law and equity, and the prosecuting attorneys for the State, shall be liable to impeachment for any malpractice or misdemeanor in office, but judgment in such cases shall not extend further than removal from office, and disqualification to hold any office of trust or profit under this State. The party impeached, whether convicted or acquitted, shall nevertheless be liable to be indicted, tried and punished according to law.

SEC. 25. The house of representatives shall have the sole power of impeachment, and all impeachments shall be tried by the senate; and when sitting for that purpose, the senators shall be on oath or affirmation to do justice according to law and evidence. When the governor shall be tried, the chief justice of the supreme court shall preside, and no person shall be convicted without the concurrence of two-thirds of all the senators elected; and for reasonable cause which shall not be sufficient ground for impeachment, the governor shall, on the joint address of two-thirds of each branch of the legislature, remove from office the judges of the supreme and inferior courts: *Provided*, The cause or causes of removal be spread on the journals, and the party charged be notified of the same, and heard by himself and counsel before the vote is finally taken and decided.

SEC. 26. The appointment of all officers, not otherwise directed by this constitution, shall be made in such manner as may be prescribed by law; and all officers, both civil and military, acting under the authority of this State, shall, before entering on the duties of their respective offices, take an oath or affirmation to support the Constitution of the United States and of this State, and to demean themselves faithfully in office.

SEC. 27. No county now established by law shall ever be reduced by the establishment of any new county or counties, to less than six hundred square miles, nor to a less population than its ratio of representation in the house of representatives; nor shall any county be hereafter established which shall contain less than six hundred square miles, or a less population than would entitle each county to a member in the house of representatives.

SEC. 28. The style of the laws of this State shall be—"*Be it enacted by the general assembly of the State of Arkansas.*"

SEC. 29. The State shall from time to time be divided into convenient districts, in such manner that the senate shall be based upon the free, white male inhabitants of the State, each senator representing an equal number as nearly as practicable; and the senate shall never consist of less than seventeen nor more than thirty-three members; and as soon as the senate shall meet after the first election to be held under this constitution, they shall cause the senators to be divided by lot into two classes, nine of the first class and eight of the second; and the seats of the first class shall be vacated at the end of

two years from the time of their election; and the seats of the second class at the end of four years from the time of their election, in order that one class of the senators may be elected every two years.

SEC. 30. An enumeration of the inhabitants of the State shall be taken under the direction of the general assembly on the first day of January, one thousand eight hundred and sixty-five, and at the end of every ten years thereafter; and the general assembly shall, at the first session after the return of every enumeration, so alter and arrange the senatorial districts, that each district shall contain, as nearly as practicable, an equal number of free white male inhabitants.

SEC. 31. The ratio of representation in the senate shall be fifteen hundred free white male inhabitants to each senator, until the senators amount to twenty-five in number, and then they shall be equally apportioned upon the same basis throughout the State, in such ratio as the increased number of free white male inhabitants may require, without increasing the senators to a greater number than twenty-five, until the population of the State amounts to five hundred thousand souls; and when an increase of senators takes place, they shall, from time to time, be divided by lot, and be classed as prescribed above.

SEC. 32. The house of representatives shall consist of not less than fifty-four, nor more than one hundred representatives, to be apportioned among the several counties in this State, according to the number of free white male inhabitants therein, taking five hundred as the ratio, until the number of representatives amounts to seventy-five; and when they amount to seventy-five, they shall not be further increased until the population of the State amounts to five hundred thousand souls: *Provided*, That each county now organized, shall, although its population may not give the existing ratio, always be entitled to one representative; and at the first session of the general assembly, after the return of every enumeration, the representation shall be equally divided and re-apportioned among the several counties, according to the number of free white males in each county, as above prescribed.

MODE OF AMENDING THE CONSTITUTION

The General Assembly may, at any time, propose such amendments to this Constitution as two-thirds of each house shall deem expedient, which shall be published in all the newspapers published in this State, three several times, at least twelve months before the next General Election; and if, at the first session of the General Assembly after such general election, two-thirds of each House shall, by yeas and nays, ratify such proposed amendments, they shall be valid to all intents and purposes as parts of this Constitution: *Provided*, That such proposed amendments shall be read on three several days in each House, as well when the same are proposed as when they are finally ratified.

ARTICLE V

ABOLISHMENT OF SLAVERY

SECTION 1. Neither slavery nor involuntary servitude shall hereafter exist in this State, otherwise than for the punishment of crime,

whereof the party shall have been convicted by due process of law; nor shall any male person, arrived at the age of twenty-one years, nor female arrived at the age of eighteen years, be held to serve any person as a servant, under any indenture or contract hereafter made, unless such person shall enter into such indenture or contract while in a state of perfect freedom, and on condition of a *bona-fide* consideration received, or to be received for their services.

Nor shall any indenture of any negro or mulatto hereafter made and executed out of this State, or if made in this State, where the term of service exceeds one year, be of the least validity, except those given in case of apprenticeship, which shall not be for a longer term than until the apprentice shall arrive at the age of twenty-one years, if a male, or the age of eighteen years, if a female.

Article VI

Executive Department

Section 1. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled "the Governor of Arkansas."

Sec. 2. The Governor shall be elected by the qualified electors, at the time, and places where they shall respectively vote for Representatives.

Sec. 3. The returns of every election for Governor, except those of the election of eighteen hundred and sixty-four, which shall be sealed and directed, as ordered in the schedule appended to this Constitution, shall be sealed up and transmitted to the speaker of the House of Representatives, who shall, during the first week of the session, open and publish them in the presence of both Houses of the General assembly. The person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, one of them shall be chosen governor by the joint vote of both houses of the general assembly, in such manner as shall be prescribed by law.

Sec. 4. The governor shall hold his office for the term of four years from the time of his installation, and until his successor shall be duly qualified, but he shall not be eligible for more than eight years in any term of twelve years; he shall be at least thirty years of age, a native-born citizen of Arkansas, or a native-born citizen of the United States, or a resident of Arkansas ten years previous to the adoption of this constitution, if not a native of the United States, and shall have been a resident of the same at least four years next before his election.

Sec. 5. He shall, at stated times, receive a compensation for his services, which shall not be increased or diminished during the term for which he shall have been elected; nor shall he receive, within that period, any other emolument from the United States, or any one of them, or from any foreign power.

Sec. 6. He shall be commander-in-chief of the army of this State, and of the militia thereof, except when they shall be called into the service of the United States.

Sec. 7. He may require any information, in writing, from the officers of the executive department on any subject relating to the duties of their respective offices.

SEC. 8. He may, by proclamation, on extraordinary occasions, convene the general assembly at the seat of government, or at a different place, if that shall have become, since their last adjournment, dangerous from an enemy, or from contagious diseases. In case of disagreement between the two houses, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper, not beyond the day of the next meeting of the general assembly.

SEC. 9. He shall, from time to time, give to the general assembly information of the state of the government, and recommend to their consideration, such measures as he may deem expedient.

SEC. 10. He shall take care that the laws be faithfully executed.

SEC. 11. In all criminal and penal cases, except in those of treason and impeachment, he shall have power to grant pardons, after conviction, and remit fines and forfeitures, under such rules and regulations as shall be prescribed by law. In cases of treason, he shall have power, by and with the advice and consent of the senate, to grant reprieves and pardons, and he may, in the recess of the senate, respite the sentence until the end of the next session of the general assembly.

SEC. 12. There shall be a seal of this State, which shall be kept by the governor, and used by him officially.

SEC. 13. All commissions shall be in the name and by the authority of the State of Arkansas, be sealed with the seal of this State, signed by the governor, and attested by the secretary of state.

SEC. 14. There shall be elected a secretary of state by the qualified voters of the State, who shall continue in office during the term of four years, and until his successor in office be duly qualified; he shall keep a fair register of all official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes and vouchers relative thereto, before the general assembly, and shall perform such other duties as may be required by law.

SEC. 15. Vacancies that may happen in offices, the election of which is vested in the general assembly, shall be filled by the governor, during the recess of the general assembly, by granting commissions, which shall expire at the end of the next session.

SEC. 16. Vacancies that may occur in offices, the election to which is vested in the people, within less than one year before the expiration of their term, shall be filled by the governor granting commissions, which shall expire at the end of the next term; but if one year or a longer period remains unexpired at the time of the vacancy, then, and in that case, the governor shall order an election to be held to fill the vacancy.

SEC. 17. Every bill which shall have passed both houses shall be presented to the governor; if he approve it, he shall sign it; but if he shall not approve it, he shall return it, with his objections, to the house in which it shall have originated, who shall enter his objections at large upon their journals, and proceed to reconsider it. If, after such reconsideration, a majority of the whole number elected to that House shall agree to pass the bill, it shall be sent, with the objections, to the other House, by which, likewise, it shall be considered, and if approved by a majority of the whole number elected to that House, it shall be a law; but in such cases, the votes of both Houses shall be determined by yeas and nays, and the names of the

persons voting for or against the bill, shall be entered on the journals of each House respectively. If any bill shall not be returned by the Governor within three days, Sundays excepted, after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the General Assembly, by their adjournment, prevent its return; in such case it shall not be a law.

SEC. 18. Every order or resolution, to which the concurrence of both Houses may be necessary, except on questions of adjournment, shall be presented to the Governor before it shall take effect, be approved by him, or, being disapproved, shall be repassed by both Houses, according to the rules and limitations prescribed in the case of a bill.

SEC. 19. A Lieutenant-Governor shall be chosen at every election for Governor, in the same manner, continue in office for the same time, and possess the same qualifications. In voting for Governor and Lieutenant-Governor, the electors shall distinguish for whom they vote as Governor, and for whom as Lieutenant-Governor.

SEC. 20. He shall, by virtue of his office, be President of the Senate, have a right, when in committee of the whole, to debate, and, whenever the Senate are equally divided, shall give the casting vote.

SEC. 21. Whenever the government shall be administered by the Lieutenant-Governor, or he shall be unable to attend as President of the Senate, the Senate shall elect one of their own members as president for that occasion; and if, during the vacancy of the office of the Governor, the Lieutenant-Governor shall be impeached, removed from office, refuse to qualify, or resign, or die, or be absent from the State, the President of the Senate shall, in like manner, administer the government.

SEC. 22. The Lieutenant-Governor, while he acts as President of the Senate, shall receive for his services the same compensation, which shall for the same period be allowed to the Speaker of the House of Representatives, and no more, and during the time he administers the government as Governor, he shall receive the same compensation which the Governor would have received had he been employed in the duties of his office.

SEC. 23. In case of an impeachment of the Governor, his removal from office, death, refusal to qualify, resignation, or absence from the State, the Lieutenant-Governor shall exercise all the power and authority appertaining to the office of Governor, until the time pointed out by this Constitution for the election of a Governor shall arrive, unless the General Assembly shall provide by law for the election of Governor to fill such vacancy.

SEC. 24. The Governor shall always reside at the seat of government.

SEC. 25. No person shall hold the office of Governor or Lieutenant-Governor, and any other office or commission, civil or military, either in this State or under any State, or the United States, or any other power, at one and the same time.

SEC. 26. There shall be elected by the qualified voters of this State, an Auditor and Treasurer for this State, who shall hold their offices for the term of two years, and until their respective successors are elected and qualified, unless sooner removed, and shall keep their

respective offices at the seat of government, and shall perform such duties as shall be prescribed by law; and in case of vacancy by death, resignation or otherwise, such vacancy shall be filled by the Governor as in other cases.

MILITIA

SECTION 1. The militia of this State shall be divided into convenient divisions, brigades, regiments and companies, and officers of corresponding titles and rank elected to command them, conforming, as nearly as practicable, to the general regulations of the Army of the United States; and all officers shall be elected by those subject to military duty in their several districts, except as hereinafter provided.

SEC. 2. The Governor shall appoint the Adjutant-General and other members of his staff; and Major-Generals, Brigadier-Generals, and Commanders of regiments, shall respectively appoint their own staff; and all commissioned officers may continue in office during good behavior, and staff officers during the same time, subject to be removed by the superior officer from whom they respectively derive their commissions.

ARTICLE VII

JUDICIAL DEPARTMENT

SECTION 1. The judicial power of this State shall be vested in one supreme court, in circuit courts, in county courts, and in justices of the peace. The general assembly may also vest such jurisdiction as may be deemed necessary in corporation courts, and when they deem it expedient, may establish courts of chancery.

SEC. 2. The supreme court shall be composed of three judges, one of whom shall be styled chief justice, any two of whom shall constitute a quorum, and the concurrence of any two of said judges shall, in every case, be necessary to a decision.

The supreme court, except in cases otherwise directed by this constitution, shall have appellate jurisdiction only, which shall be co extensive with the State, under such restrictions and regulations as may, from time to time, be prescribed by law.

It shall have a general superintending control over all inferior and other courts of law and equity. It shall have power to issue writs of error, *supersedeas*, *certiorari* and *habeas corpus*, *mandamus* and *quo warranto*, and other remedial writs, and to hear and determine the same. Said judges shall be conservators of the peace throughout the State, and shall have power to issue any of the aforesaid writs.

SEC. 3. The circuit court shall have original jurisdiction over all criminal cases which shall not be otherwise provided for by law; and exclusive original jurisdiction of all crimes amounting to felony at the common law, and original jurisdiction of all civil cases which shall not be cognizable before justices of the peace, until otherwise directed by the general assembly; and original jurisdiction in all matters of contract, where the sum in controversy is over two hundred dollars. It shall hold its terms at such place in each county as may be by law directed.

SEC. 4. The State shall be divided into convenient circuits, each to consist of not less than five nor more than seven counties contiguous to each other, for each of which a judge shall be elected, who, during his continuance in office, shall reside and be a conservator of the peace, within the circuit for which he shall have been elected.

SEC. 5. The circuit courts shall exercise a superintending control over the county courts, and over justices of the peace in each county, in their respective circuits, and shall have power to issue all the necessary writs to carry into effect their general and specific powers.

SEC. 6. Until the general assembly shall deem it expedient to establish courts of chancery, the circuit courts shall have jurisdiction in matters of equity, subject to appeal to the supreme court, in such manner as may be prescribed by law.

SEC. 7. The qualified voters of this State shall elect the judges of the supreme court; the judges of the supreme court shall be at least thirty years of age; they shall hold their offices during the term of eight years from the date of their commissions, and until their successors are elected and qualified.

Immediately after such election by the people, the lieutenant-governor and speaker of the house of representatives shall proceed, by lot, to divide the judges into three classes. The commission of the first class shall expire at the end of four years; of the second class at the end of six years; and of the third class at the end of eight years; so that one-third of the whole number shall be chosen every four, six and eight years.

SEC. 8. The qualified voters of each judicial district shall elect a circuit judge. The judges of the circuit court shall be at least twenty-five years of age, and shall be elected for the term of four years from the date of their commissions, and shall serve until their successors are elected and qualified.

SEC. 9. The supreme court shall appoint its own clerk or clerks, for the term of four years. The qualified voters of each county shall elect a clerk of the circuit court for the respective counties, who shall hold his office for the term of two years, and until his successor is elected and qualified; and courts of chancery, if any be established, shall appoint their own clerks.

SEC. 10. The Judges of the Supreme Courts and Circuit Courts shall, at stated times, receive a compensation for their services, to be ascertained by law, which shall not be diminished during the time for which they are elected. They shall not be allowed any fees or perquisites of office, nor hold any other office of trust or profit under this State or the United States. The Attorney-General, the State's Attorneys, and Clerks of the Supreme and circuit Courts, and courts of chancery, if any such be established, shall receive for their services such salaries, fees and perquisites of office, as shall, from time to time, be fixed by law.

SEC. 11. There shall be established in each county in the State, a court to be holden by the Justices of the Peace, a court called the County Court, which shall have jurisdiction in all matters relating to taxes, disbursements of money for county purposes, and in every other case that may be necessary to the internal improvement and local concerns of the respective counties.

SEC. 12. The qualified voters of each county shall elect a County and Probate Judge, who shall hold his office for two years, and until

his successor is elected and qualified. He shall, in addition to the duties that may be required of him by law, as a presiding judge of the County Court, be a judge of the court of probate, and have such jurisdiction in matters relating to the estates of deceased persons, executors, administrators and guardians, as may be prescribed by law, until otherwise directed by the General Assembly.

SEC. 13. The presiding Judge of the Probate and County Court, and Justices of the Peace, shall receive for their services such compensation and fees as the General Assembly may from time to time by law direct.

SEC. 14. No judge shall preside on the trial of any cause in the event of which he may be interested, or where either of the parties shall be connected with him by affinity or consanguinity, within such degrees as may be prescribed by law, or in which he may have been counsel, or have presided in any inferior court, except by consent of all the parties. In case all or any of the Judges of the Supreme Court shall be thus disqualified from presiding on any cause or causes, the court or judges thereof shall certify the same to the Governor of the State, and he shall immediately commission, specially, the requisite number of men of law-knowledge, for the trial and determination thereof. The same course shall be pursued in the Circuit and inferior courts as prescribed in this section for cases of the Supreme Court. Judges of the Circuit Courts may temporarily exchange circuits, or hold courts for each other, under such regulations as may be pointed out by law. Judges shall not charge juries with regard to matter of fact, but may state the testimony and declare the law.

SEC. 15. The qualified voters thereof shall elect an Attorney for the State, for each judicial circuit established by law, who shall continue in office two years, and until his successor is elected and qualified, and reside within the circuit for which he was elected at the time of, and during his continuance in office. In all cases where an attorney for the State, of any circuit, fails to attend and prosecute, according to law, the court shall have power to appoint an attorney *pro tempore.*

SEC. 16. The qualified voters of this State shall elect an Attorney-General, whose salary shall be the same as that of Circuit Judge, who shall be learned in the law; who shall be at least thirty years of age, and shall hold his office for the term of four years from the date of his commission, and until his successor is elected and qualified; and whose duty it shall be to prosecute the State's pleas before the Supreme Court, and give his opinion, in writing, on all questions of law or equity, when required by the governor or other officer of the State, and perform such other duties as may be prescribed by law.

SEC. 17. All writs and other process shall run in the name of the "*State of Arkansas*," and bear teste and be signed by the clerks of the respective courts from which they issue. Indictments shall conclude "against the peace and dignity of the State of Arkansas."

SEC. 18. The qualified voters residing in each township shall elect the Justices of the Peace for each township. For every one hundred voters there may be elected one Justice of the Peace: *Provided*, That each township, however small, shall have two justices of the peace. Justices of the peace shall be elected for the term of two years, and shall hold their offices until their successors are elected

and qualified; shall be commissioned by the governor, and shall reside in the township for which they are elected during their continuance in office. The first election for justices of the peace shall take place on the second Monday in March, one thousand eight hundred and sixty-four, and the second election on the first Monday in August, one thousand eight hundred and sixty-six, and at the regular elections thereafter. Justices of the peace, individually, or two or more of them jointly, shall have original jurisdiction in cases of bastardy, and in all matters of contract, and actions for the recovery of fines and forfeiture where the amount claimed does not exceed two hundred dollars, and concurrent jurisdiction with circuit courts where the amount claimed exceeds one hundred dollars, and does not exceed two hundred dollars, and such jurisdiction as may be provided by law in actions *ex delicto*, where the damages claimed do not exceed one hundred dollars, and prosecutions for assault and battery and other penal offences less than felony, punishable by fine only. Every action cognizable before a justice of the peace, instituted by summons or warrant, shall be brought before some justice of the peace of the township where the defendant resides. They may also sit as examining courts, and commit, discharge, or recognize any person charged with any crime of any grade. For the foregoing purposes they shall have power to issue all necessary process. They shall also have power to bind, to keep the peace, or for good behavior.

Sec. 19. The qualified voters of each township shall elect one constable for the term of two years, who shall hold his office till his successor is elected and qualified, who shall, during his continuance in office, reside in the township for which he was elected. Incorporated towns may have a separate constable and a separate magistracy. successor is elected and qualified, who shall, during his continuance one coroner, and one county surveyor, for the term of two years, and until their successors are elected. They shall be commissioned by the governor, reside in their respective counties during their continuance in office, and be disqualified for the office a second term, if it should appear that they or either of them are in default for moneys collected by virtue of their respective offices.

Article VIII

General provisions—education

Section 1. Knowledge and learning generally diffused throughout a community, being essential to the preservation of a free government, and diffusing the opportunities and advantages of education through the various parts of the State, being highly conducive to this end, it shall be the duty of the general assembly to provide by law for the improvement of such lands as are or hereafter may be granted by the United States to this State for the use of schools, and to apply any funds which may be raised from such lands, or from any other source, to the accomplishment of the object for which they are or may be intended. The general assembly shall, from time to time, pass such laws as shall be calculated to encourage intellectual, scientific and agricultural improvement, by allowing rewards and immunities for the promotion and improvement of arts, science,

commerce, manufactures, and natural history, and countenance and encourage the principles of humanity, industry and morality.

SEC. 2. Treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

SEC. 3. No person who denies the being of a God shall hold any office in the civil department of this State, nor be allowed his oath in any court.

SEC. 4. No money shall be drawn from the treasury but in consequence of an appropriation by law; nor shall any appropriation of money for the support of the army be made for a longer term than two years; and a regular statement and account of the receipts and expenditures of all public money shall be published with the promulgation of the laws.

SEC. 5. Absence on business of this State, or of the United States, or on a visit, or necessary private business, shall not cause a forfeiture of a residence once obtained.

SEC. 6. No lottery shall be authorized by this State, nor shall the sale of lottery tickets be allowed.

SEC. 7. Internal improvement shall be encouraged by the government of this State; and it shall be the duty of the General Assembly, as soon as may be, to make provision by law for ascertaining the proper objects of improvement in relation to roads, canals and navigable waters; and it shall also be their duty to provide by law for an equal, systematic and economical application of the funds which may be appropriated to these objects.

SEC. 8. Returns for all elections for officers who are to be commissioned by the Governor, and for members of the General Assembly, shall be made to the Secretary of State, except in the election of eighteen hundred and sixty-four, they may be made as directed in the schedule appended to this Constitution.

SEC. 9. Within five years after the adoption of this Constitution, the laws, civil and criminal, shall be revised, digested and arranged, and promulgated in such manner as the General Assembly may direct, and a like revision, digest and promulgation shall be made within every subsequent period of ten years.

SEC. 10. In the event of the annexation of any territory to this State by a cession from the United States, laws may be passed extending to the inhabitants of such territory all the rights and privileges which may be required by the terms of such cession, anything in this Constitution to the contrary notwithstanding.

SEC. 11. Imprisonment for debt shall not be allowed in this State, except when an allegation of fraud on the part of the debtor shall be clearly proved.

SEC. 12. Any person who shall, after the adoption of this Constitution, fight a duel, or send or accept a challenge for that purpose, or be aider or abettor in fighting a duel, shall be deprived of the right of suffrage, and of the right of holding any office of honor or profit in this State, and shall be punished otherwise in such manner as is or may be prescribed by law.

Article IX

Revenue

Section 1. All revenue shall be raised by taxation to be fixed by law.

Sec. 2. All property subject to taxation shall be taxed according to its value, that value to be ascertained in such manner as the General Assembly shall direct, making the same equal and uniform throughout the State. No one species of property from which a tax may be collected shall be taxed higher than another species of property of equal value: *Provided*, The General Assembly shall have the power to tax merchants, hawkers, peddlers and privileges, in such manner as may from time to time be prescribed law: *And provided further*, That no other or greater amount of revenue shall at any time be levied than required for the necessary expenses of the government, unless by a concurrence of two-thirds of both Houses of the General Assembly.

Sec. 3. No poll-tax shall be assessed for other than county purposes.

Sec. 4. No other or greater tax shall be levied on the productions or labor of the country than may be required for expenses of inspection.

Schedule

Section 1. In order that civil government may be in full operation and effect, at the earliest day possible, it is further ordained and provided that a general vote on the ratification of the Constitution and ordinance of this convention, and a general election shall be taken and held throughout the State, as far as practicable, on the second Monday of March next, as follows, to wit: Any number of persons, being white male citizens of the State, over the age of twenty-one years, at the county seat of any county, or (in case of volunteer soldiers in the Federal Army) at the camp of their respective companies, having first taken the oath prescribed in the President's proclamation of December eight, one thousand eight hundred and sixty-three, before any justice of the peace, or other person authorized to administer an oath within the county in which they reside, or within which they are encamped, may appoint a commissioner of elections, with power to appoint such election judges as may be necessary, who shall also be an enrolling officer for said county or company, who shall proceed as follows, to wit: Said commissioners shall prepare an enrolling and poll book, to which shall be appended the constitution, ordinances and schedule of this convention; one column shall then be headed with the oath contained in said proclamation of the President; another column headed "Constitution and ordinances ratified;" another column, "Constitution and ordinances rejected;" other columns shall be arranged so that a vote may be taken for all officers to be voted for within the county or company where the election is proposed to be held; said commissioner shall then take the oath aforesaid, before any justice of the peace or other officer authorized to administer oaths, and enroll his own name at the head of the column, under the said oath, written out in full; the said commissioner shall then, on the said second Monday of March next, within usual election hours, proceed to hold an election, as follows: *viva voce; And*

provided also, That said commissioner may keep the polls open for three days, to wit: Every white male citizen over the age of twenty-one years, of the county, or (in case of a military company) of the State, presenting himself to vote, and not being included in the exceptions contained in the said proclamation, shall take the oath contained in said proclamation, administered by any justice of the peace, or other officer authorized to administer oaths; and when his name has been thereafter duly enrolled or subscribed in the proper column, the commissioner shall cause his vote to be recorded, first upon the question of the constitution and ordinances, and then in the election of all officers to be voted for.

SEC. 2. That within five days after the holding of said election, said commissioner shall foot up the said vote, and certify the result, over his signature, as commissioner; he shall then make a duplicate of said book, (except that the constitution and ordinances of this convention need not be appended to the copy,) and forward the said copy to Little Rock, addressed to the provisional government; the original book shall be preserved by said commissioner, and deposited by him as soon as the counties are organized, with the clerk of the county wherin the election was held, or (in case of soldiers) in the county wherein the voters reside.

SEC. 3. Within ten days after the receipt of the said enrolling and election return-books by the provisional governor, it shall be his duty, with the assistance of the secretary of state, to examine the same and declare the result by proclamation as follows, to wit:

1st. Whether the constitution and ordinances of this convention have been adopted or rejected within the meaning of the President's proclamation.

2d. He shall announce the whole vote polled for or against said constitution and ordinances.

3d. He shall declare what persons are elected to the various offices throughout the State, except that of governor and lieutenant-governor of state, deciding the result by plurality.

SEC. 4. All persons thus declared to be elected State officers, shall enter upon the discharge of their respective offices as soon thereafter as they take and subscribe an oath before any justice of the peace, or other officer authorized to administer oaths, as follows: That they will faithfully perform the duties of their respective offices; that they will support the constitution and laws of the State and of the United States; and said oath, in case of State officers, shall be filed in the office of the secretary of state; and in case of county officers, they shall enter upon the duties of their respective offices immediately after the election upon filing said oath with the county commissioners.

SEC. 5. At the first session of the legislature, and during the first week of the session, the said provisional governor shall place the said return-books before that body, who shall declare the result as to the election of governor and lieutenant-governor and secretary of state, who, before entering uopn the duties of their respective offices, shall take the oath herein prescribed for other officers.

SEC. 6. It is also further ordained and declared, that in counties wherein, for any cause, elections are not held on the said second Monday of March next, the same may be held for the several local officers provided for in the constitution, ordinances and schedule of this con-

vention, in the same manner as hereinbefore described, at any time thereafter, till the whole State is fully organized and represented.

SEC. 7. The officers to be voted for in this election, are governor, lieutenant-governor, secretary of state, auditor, treasurer, attorney-general, three judges of the supreme court, nine circuit judges and nine district attorneys, (according to act of January fifteenth, one thousand eight hundred and sixty-one,) county judges, clerks, sheriffs, coronors, constables, justices of the peace, and all other officers provided for in the constitution and ordinances of this convention, or which may exist by law, and members of the legislature, according to the ratio or apportionment of senatorial districts in force in the year one thousand eight hundred and sixty, and members to Congress in districts Nos. 1 and 2, according to the act approved January nineteenth, one thousand eight hundred and sixty-one, (no election being ordered in district No. 3, this convention recognizing the election of Colonel James M. Johnson as the representative from that district.) And it is further hereby declared that all laws in force in this State on the fourth day of March, one thousand eight hundred and sixty-one, are still in force, not inconsistent with the provisions of this constitution, and which have not expired by limitation therein contained.

JOHN MCCOY, *President.*

Attest:

ROBERT J. T. WHITE, *Secretary.*
JAMES R. BERRY, *Ass't Secretary.*

CONSTITUTION OF ARKANSAS—1868 *[a]

PREAMBLE

We, the people of Arkansas, grateful to God for our civil and religious liberty, and desiring to perpetuate its blessings and secure the same to ourselves and our posterity, do ordain and establish this Constitution:

ARTICLE I

BILL OF RIGHTS

SECTION 1. All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people, and they have the right to alter or reform the same whenever the public good may require it. But the paramount allegiance of every citizen is due to the Federal Government in the exercise of all its constitutional powers as the same may have been or may be defined by the Supreme Court of the United States, and no power exists in the people of this or any other State of the Federal Union to dissolve their connection therewith, or perform any act tending to impair, subvert or resist the supreme authority of the United States.

---

* Verified from Judge U. M. Rose's edition of the Constitution of Arkansas, 1836, pp. 277–328.

[a] A constitutional convention, called under the reconstruction acts of Congress, met at Little Rock, January 7, 1868, and adopted this constitution on the 11th of February following. It was submitted to the people, and ratified by 27,913 votes against 26,597 votes.

The Constitution of the United States confers full powers on the Federal Government to maintain and perpetuate its existence; and whensoever any portion of the States, or the people thereof, attempt to secede from the Federal Union, or forcibly resist the execution of its laws, the Federal Government may, by warrant of the Constitution, employ armed force in compelling obedience to its authority.

SEC. 2. The liberty of the press shall forever remain inviolate. The free communication of thoughts and opinions is one of the invaluable rights of man, and all persons may freely speak, write and publish their sentiments on all subjects, being responsible for the abuse of such right. In all criminal prosecutions for libel, the truth may be given in evidence to the jury, and if it shall appear to the jury, that the matter charged as libellous is true, and was published with good motives, and for justifiable ends, the party shall be acquitted.

SEC. 3. The equality of all persons before the law is recognized and shall ever remain inviolate; nor shall any citizen ever be deprived of any right, privilege, or immunity, nor exempted from any burden or duty, on account of race, color, or previous condition.

SEC. 4. The citizens have a right, in a peaceable manner, to assemble together for their common good, to instruct their representatives and to petition for the redress of grievances, and other proper purposes.

SEC. 5. The citizens of this State shall have the right to keep and bear arms for their common defence.

SEC. 6. The right of trial by jury shall remain inviolate and shall extend to all cases at law without regard to the amount in controversy; but a jury trial may be waived by the parties in all cases, in the manner prescribed by law.

SEC. 7. Excessive bail shall not be required, nor shall excessive fines be imposed; nor shall cruel or unusual punishments be inflicted; nor witnesses be unreasonably detained.

SEC. 8. In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the county or judicial district wherein the crime shall have been committed—which county or district shall have been previously ascertained by law—and to be informed of the nature and cause of the accusation against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel in his defence.

SEC. 9. No person shall be held to answer a criminal offence unless on the presentment or indictment of a grand jury, except in cases of impeachment, or in cases of petit larceny, assault, assault and battery, affray, vagrancy and such other minor cases as the general assembly shall make cognizable by justices of the peace; or arising in the Army and Navy of the United States, or in the militia when in actual service in time of war or public danger; and no person after having once been acquitted by a jury, for the same offence, shall be again put in jeopardy of life or liberty; but if, in any criminal prosecution, the jury be divided in opinion, the court before which the trial shall be had may in its discretion discharge the jury and commit or bail the accused for trial at the same or the next term of said court; nor shall any person be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty or property, without due process of law. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offences—

murder and treason—when the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended unless when in cases of rebellion or invasion the public safety may require.

SEC. 10. Every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive in his person, property or character; he ought to obtain justice freely and without purchase; completely and without denial; promptly and without delay; conformably to the laws.

SEC. 11. Treason against the State shall only consist in levying war against the same, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

SEC. 12. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or things to be seized.

SEC. 13. No bill of attainder, *ex post facto* law, nor any law impairing the obligation of contracts, shall ever be passed; and no conviction shall work corruption of blood or forfeiture of estate.

SEC. 14. No person shall be imprisoned for debt in this State; but this shall not prevent the General Assembly from providing for imprisonment or holding to bail persons charged with fraud in contracting said debt. A reasonable amount of property shall be exempt from seizure or sale for the payment of debts or liabilities.

SEC. 15. Private property shall not be taken for public use without just compensation therefor.

SEC. 16. The military shall be subordinate to the civil power. No standing army shall be kept up in this State in time of peace, and no soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner prescribed by law.

SEC. 17. Suits may be brought by or against the State in such manner and in such courts as may be by law provided.

SEC. 18. The General Assembly shall not grant to any citizen or class of citizens, privileges or immunities which, upon the same terms, shall not equally belong to all citizens.

SEC. 19. The right of suffrage shall be protected by laws regulating elections and prohibiting, under adequate penalties, all undue influence from bribery, tumult, or other improper conduct.

SEC. 20. Foreigners who are, or may become *bona-fide* residents of this State, shall be secured the same rights in respect to the acquisition, possession, enjoyment and descent of property as are secured to native-born citizens.

SEC. 21. No religious test or amount of property shall ever be required as a qualification for any office of public trust under the State. No religious test or amount of property shall ever be required as a qualification of any voter at any election in this State; nor shall any person be rendered incompetent to give evidence in any court of law or equity in consequence of his opinion upon the subject of religion; and the mode of administering an oath or affirmation shall

be such as shall be most consistent with and binding upon the conscience of the person to whom such oath or affirmation may be administered.

SEC. 22. Any person who shall, after the adoption of this Constitution, fight a duel or send or accept a challenge for that purpose, or be aider or abettor in fighting a duel, either within this State or elsewhere, shall thereby be deprived of the right of holding any office of honor or profit in this State, and shall be forever disqualified from voting at any election, and shall be punished otherwise in such manner as may be prescribed by law.

SEC. 23. Religion, morality and knowledge being essential to good government, the General Assembly shall pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship; and to encourage schools and the means of instruction.

SEC. 24. All lands in this State are declared to be allodial, and feudal tenures of every description, with all their incidents, are prohibited. Leases and grants of land for a longer period than twenty-one years, hereafter made, in which shall be reserved any rent or service of any kind, shall be held a conveyance in fee to the lessee.

SEC. 25. The action of the convention of the State of Arkansas, which assembled in the city of Little Rock on the fourth day of March, A. D. one thousand eight hundred and sixty one, was, and is null and void. All the action of the State of Arkansas under the authority of said convention, of its ordinances or its Constitution, whether legislative, executive, judicial or military, was, and is hereby declared null and void; and no debt or liability of the State of Arkansas incurred by the action of said convention, or of the General Assembly, or any department of the government under the authority of either, shall ever be recognized as obligatory: *Provided*, That this ordinance shall not be so construed as to affect the rights of private individuals arising under contracts between the parties, or to change county boundaries or county seats, or to make invalid the acts of justices of the peace, or other officers in their authority to administer oaths or take and certify the acknowledgment of deeds of conveyance, or other instruments of writing, or in the solemnization of marriage.

ARTICLE II

BOUNDARIES

We do declare and establish, ratify and confirm, the following as the permanent boundaries of said State of Arkansas, that is to say: Beginning at the middle of the main channel of the Mississippi River, on the parallel of 36° north latitude; running from thence west, with the said parallel of latitude, to the Saint Francis River; thence up the middle of the main channel of said river to the parallel of 36° 30′ north; from thence west with the boundary-line of the State of Missouri to the southwest corner of that State; and thence to be bounded on the west to the north bank of Red River as by acts of Congress and treaties heretofore defining the western limits of the Territory of Arkansas; and to be bounded on the south side of Red River by the boundary-line of the State of Texas, to the northwest

corner of the State of Louisiana; thence east with the Louisiana State line to the middle of the main channel of the Mississippi River; thence up the middle of the main channel of said river, including an island in said river known as "Belle Point Island" to the 36° of north latitude—the place of beginning.

Article III

The seat of government shall be at Little Rock, where it is now established.

Article IV

Section 1. The powers of government are divided into three departments—the legislative, the executive, and the judicial.

Sec. 2. No person belonging to one department shall exercise the powers properly belonging to another, excepting in the cases expressly provided in this constitution.

Article V

Section 1. The legislative power in this State shall be vested in a general assembly, which shall consist of a senate and a house of representatives.

Sec. 2. The general assembly shall meet every two years, on the first Monday of January, at the seat of government, until altered by law; but the first general assembly elected after the adoption of this constitution shall meet on the second (2d) day of April, A. D. one thousand eight hundred and sixty-eight, (1868.)

Sec. 3. The house of representatives shall consist of members chosen every second year by the qualified electors of the several districts.

Sec. 4. No person shall be a member of the house of representatives who shall not have attained the age of twenty-one years, and have been one year a resident of this State, who shall not be a male citizen of the United States, who shall not, at the time of his election, have an actual residence in the district he may be chosen to represent, and who shall not be a qualified elector as provided in this constitution.

Sec. 5. The senate shall consist of members chosen every fourth year by the qualified electors of the several districts.

Sec. 6. No person shall be a member of the senate who shall not have attained the age of twenty-five years, and have been one year a resident of this State, who shall not be a male citizen of the United States, who shall not, at the time of his election, have an actual residence in the district he may be chosen to represent, and who shall not be a qualified elector as provided in this constitution.

Sec. 7. The number of members composing the senate shall be twenty-six, (26,) and of the house of representatives eighty-two, (82.)

Sec. 8. The general assembly shall provide by law for an enumeration of the inhabitants of this State in the year one thousand eight hundred and seventy-five, (1875,) and every tenth year thereafter; and the first general assembly elected after each enumeration so made, and also after each enumeration made by the authority of the United

States, may re-arrange the senatorial and representative districts according to the number of inhabitants as ascertained by such enumeration: *Provided*, That there shall be no apportionment other than that made in this constitution, until after the enumeration to be made in the year one thousand eight hundred and seventy-five, (1875.)

SEC. 9. Senators shall be chosen at the same time and in the same manner that members of the house of representatives are required to be. Senatorial districts shall be composed of convenient contiguous territory, and no representative district shall be divided in the formation of a senatorial one. The senatorial district shall be numbered in regular series, and the term of senators chosen for the districts designated by odd numbers shall expire in two (2) years, and the term of senators chosen for the districts designated by even numbers shall expire in four (4) years; but thereafter senators shall be chosen for the term of four years, excepting when an enumeration of the inhabitants of the State is made, in which case, if a re-arrangement of the senatorial districts is made, then the regulation above stated shall govern the term of office.

SEC. 10. Removals of senators and representatives from their respective districts shall be deemed a vacation of their office.

SEC. 11. No person holding any office under the United States, or this State, or any county office, excepting postmasters, notaries public, officers of the militia, and township officers, shall be eligible to, or have a seat in either branch of the General Assembly, and all votes given for any such person shall be void.

SEC. 12. Senators and representatives shall, in all cases, (treason, felony, or breach of the peace excepted,) be privileged from arrest during the session of the general assembly; they shall not be subjected to any civil process during the session of the general assembly, or for fifteen days next before the commencement, and next after the termination of each session and they shall not be questioned in any other place for remarks made in either house.

SEC. 13. A majority of the members of each House shall constitute a quorum to transact business, but a smaller number may adjourn from day to day, and compel the attendance of absent members in such manner, and under such penalties, as each house may prescribe.

SEC. 14. Each house shall choose its own officers, determine the rules of its proceedings, judge of the qualifications, election and return of its members; and may, with the concurrence of two-thirds of all the members elected, expel a member; but no member shall be expelled a second time for the same cause, nor for any cause known to his constituents at the time of his election. The reasons for any such expulsion shall be entered upon the journal, with the names of the members voting thereon.

SEC. 15. The General Assembly shall prescribe by law the manner in which the State printing shall be executed, and the accounts rendered therefor, and shall prohibit all charges for constructive labor. They shall not rescind or alter any contract for such printing, or release the person or persons taking the same, or his or their securities, from the performance of any of the provisions of said contract.

SEC. 16. Each house shall keep a journal of its proceedings, and publish the same, excepting such parts as may require secrecy. The yeas and nays of the members of either house, upon any question,

shall be entered on the journal at the request of five members. Any member of either house may dissent, and protest against any act, proceeding or resolution which he may deem injurious to any person or the public, and have the reason of his dissent entered on the journal.

Sec. 17. In all elections by either house, or in joint convention, the votes shall be given *viva voce*. All votes on nominations to the senate shall be taken by yeas and nays, and published with the journal of its proceedings.

Sec. 18. The doors of each house shall be open, unless the public welfare requires secrecy. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than where the general assembly may then be in session.

Sec. 19. Bill may originate in either House of the General Assembly, but all bills for raising revenue shall originate in the House of Representatives, though the Senate may propose amendments as on other bills.

Sec. 20. No portion of the public funds or property shall ever be appropriated by virtue of any resolution. No appropriation shall be made except by a bill duly passed for that purpose.

Sec. 21. Every bill and joint resolution shall be read three times, on different days, in each house, before the final passage thereof, unless two-thirds of the house where the same is pending shall dispense with the rules. No bill or joint resolution shall become a law without the concurrence of a majority of all the members voting. On the final passage of all bills the vote shall be taken by yeas and nays, and entered on the journal.

Sec. 22. No act shall embrace more than one subject, which shall be embraced in its title. No public act shall take effect or be in force until ninety days from the expiration of the session at which the same is passed, unless it is otherwise provided in the act.

Sec. 23. No law shall be revised, altered or amended, by reference to its title only, but the act revised, and the section or sections of the act as altered or amended shall be enacted and published at length.

Sec. 24. No new bill shall be introduced into either house during the last three days of the session without the unanimous consent of the house in which it originated.

Sec. 25. The general assembly, at its first session, shall provide suitable laws for the registration of qualified electors, and for the prevention of frauds in elections.

Sec. 26. The general assembly shall provide for the speedy publication of all statute laws of a public nature, and of such judicial decisions as it may deem expedient. All laws and judicial decisions shall be free for publication by any person.

Sec. 27. The style of the laws of the State shall be, "*Be it enacted by the general assembly of the State of Arkansas.*"

Sec. 28. The general assembly may enact laws providing for county, township or precinct governments.

Sec. 29. It shall be the duty of the general assembly, from time to time, as circumstances may require, to frame and adopt a penal code, founded on principles of reformation.

Sec. 30. The general assembly shall not change the venue in any criminal or penal prosecution, but shall provide for the same by general laws.

SEC. 31. The general assembly may pass laws authorizing appeals in criminal or penal cases, and regulating the right of challenge of jurors therein.

SEC. 32. The general assembly shall direct by law when and how juries shall be selected from judicial districts in criminal and civil cases.

SEC. 33. The general assembly shall regulate by law by whom and in what manner, writs of election shall be issued to fill the vacancies which may happen in either branch thereof.

SEC. 34. The general assembly may declare the cases in which any office shall be deemed vacant, and also for the manner of filling the vacancy, where no provision is made for that purpose in this constitution.

SEC. 35. Every bill and concurrent resolution, except of adjournment, passed by the general assembly, shall be presented to the governor for approval before it becomes a law. If he approve, he shall sign it; if not, he shall return it with his objections to the house in which it originated, which shall enter the objections at large upon its journal, and reconsider it. On such reconsideration, if a majority of the members elected agree to pass the bill, it shall be sent with the objections to the other house, by which it shall be reconsidered. If approved by a majority of the members elected to that house, it shall become a law. In such cases the vote of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journal of each house respectively. If any bill be not returned by the governor within three (3) days (Sunday excepted) after it has been presented to him, the same shall become a law in like manner as if he had signed it, unless the general assembly, by their adjournment, prevent its return, in which case it shall not become a law. The governor may approve, sign and file in the office of the secretary of state, within three days after the adjournment of the General Assembly, any act passed during the last three (3) days of the session, and the same shall become a law.

SEC. 36. Each house may punish by imprisonment, during its session, any person not a member, who shall be guilty of any disorderly or contemptuous behavior in their presence; but no such imprisonment shall at any time exceed twenty-four (24) hours.

SEC. 37. No citizen of this State shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless the same is done by the law of the land, or the judgment of his peers, except as hereinafter provided. There shall be neither slavery nor involuntary servitude, either by indentures, appenticeships or otherwise, in the State, except for the punishment of crime, whereof the party shall have been duly convicted.

SEC. 38. The General Assembly shall have no power to make compensation for emancipated slaves.

SEC. 39. The General Assembly shall have no power to grant divorces, to change the names of individuals, or to direct the sale of estates belonging to infants or other persons laboring under legal disabilities, by special legislation; but, by general laws, shall confer such powers on the courts of justice.

SEC. 40. The general assembly shall not authorize, by private or

special law, the sale or conveyance of any real estate belonging to any person, or vacate or alter any road laid out by legal authority, or any street in any city or village, or in any recorded town-plat; but shall provide for the same by general laws.

SEC. 41. The general assembly shall not authorize any lottery, and shall prohibit the sale of lottery tickets.

SEC. 42. In case of a contested election, only the claimant decided entitled to the seat, in either house in which the contest may take place, shall receive from the State per diem compensation and mileage.

SEC. 43. No collector, holder, or disburser of public moneys shall have a seat in the general assembly, or be eligible to any office of trust or profit under this State, until he shall have accounted for, and paid over, as provided by law, all sums for which he is liable.

SEC. 44. The General Assembly shall have power to alter and regulate the jurisdiction and proceedings in law and equity, subject to the provisions of this constitution.

SEC. 45. The general assembly shall direct by law in what manner and in what courts suits may be brought by and against the State.

SEC. 46. It shall be the duty of the general assembly to make adequate provision for the maintenance of paupers throughout the State.

SEC. 47. The general assembly shall not have power to authorize any municipal corporation to pass any laws contrary to the general laws of the State, or to levy any tax on real or personal property to a greater extent than two (2) per centum of the assessed value of the same.

SEC. 48. The general assembly shall pass no special act conferring corporate powers. Corporations may be formed under general laws; but all such laws may, from time to time, be altered or repealed. Dues from corporations shall be secured by such individual liability of the stockholders, and other means, as may be prescribed by law; but, in all cases, each stockholder shall be liable over and above the stock by him or her owned, and any amount unpaid thereon, to a further sum, at least equal in amount to such stock. The property of corporations, now existing or hereafter created, shall forever be subject to taxation, the same as the property of individuals. No right of way shall be appropriated to the use of any corporation until full compensation therefor shall be first made in money, or first secured by a deposit of money, to the owner, irrespective of any benefit from any improvement proposed by such corporation; which compensation shall be ascertained by a jury of twelve men in a court of record, as shall be prescribed by law.

SEC. 49. The general assembly shall provide for the organization of cities and incorporated villages by general laws, and restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent the abuse of such power.

SEC. 50. All corporations with banking and discounting privileges, shall, preparatory to issuing bills as currency, deposit the bonds of this State, equal in amount to the capital stock of such corporation, with the auditor of the State, who shall not permit an issue of circulation exceeding eighty per centum of the amount of bonds so deposited, such circulation being receivable for all taxes and dues to the State, and the individual liability of stockholders shall be as herein-

before directed: *Provided*, That corporations chartered or existing under any act of the Congress of the United States shall be exempted from these provisions.

Sec. 51. The General Assembly, on the day of final adjournment, shall adjourn at twelve o'clock at noon.

Article VI

EXECUTIVE DEPARTMENT

Section 1. The executive department of this State shall consist of a governor, lieutenant-governor, secretary of state, auditor, treasurer, attorney-general and superintendent of public instruction—all of whom shall hold their several offices for the term of four years and until their successors are elected and qualified. They shall be chosen by the qualified electors of this State at the time and places of choosing the members of the General Assembly.

Sec. 2. The supreme executive power of this State shall be vested in the governor.

Sec. 3. No person shall be eligible to the office of governor or lieutenant-governor who shall not have attained the age of twenty-five years, who shall not have been five years a citizen of the United States, who shall not, at the time of his election, have had an actual residence in this State for one year next preceding his election, and who shall not be a qualified elector as prescribed in this constitution.

Sec. 4. In elections for governor and lieutenant-governor, the person having the highest number of votes shall be declared elected. But in case that two or more persons shall have an equal, and the highest number of votes for governor or lieutenant-governor, the General Assembly shall, by joint vote, choose one of such persons. The governor shall be commander-in-chief of the military and naval forces of the State, and may call out such forces to execute the laws, suppress insurrections, repel invasions, or preserve the public peace. He shall transact all necessary business with other officers of the State government, and may require information in writing of the officers of the executive department upon any subject pertaining to the duties of their respective offices.

Sec. 5. It shall be the duty of the governor to see that the laws are faithfully executed.

Sec. 6. He may convene the legislature on extraordinary occasions.

Sec. 7. He shall give to the General Assembly, and at the close of his official term, to the next General Assembly information by message, concerning the condition of the State, and recommend such means to their consideration as he may deem expedient.

Sec. 8. He may convene the General Assembly at some other place when the seat of government becomes dangerous from the prevalence of disease, or the presence of a common enemy.

Sec. 9. He may grant reprieves, pardons and commutations after conviction for all offences, except treason and cases of impeachment. upon such conditions and with such restrictions and limitations as he may think proper; subject, however, to such regulations as may be prescribed by law relative to the manner of applying for pardons. Upon conviction for treason he may suspend execution of the

sentence until the matter shall be reported to the General Assembly at its next session, when the General Assembly shall either pardon, commute the sentence, direct the execution of the same or grant a further reprieve. The governor shall communicate to the General Assembly at each session, information concerning each case of pardon, reprieve or commutation granted, and the reasons therefor.

Sec. 10. In case of the impeachment of the governor, his removal from office, death, resignation, inability or removal from the State, the powers and duties of the Governor shall devolve upon the Lieutenant-Governor during the residue of the term, or until the disabilities of the Governor are removed.

Sec. 11. During a vacancy in the office of governor, if the lieutenant-governor resign, be impeached, displaced, absent from the State or incapable of acting, the president *pro tempore* of the senate, shall act as governor until the vacancy be filled or the disability cease.

Sec. 12. The lieutenant-governor shall by virtue of his office, be President of the Senate, and when there is an equal division he shall give the casting vote.

Sec. 13. No member of Congress or any person holding any office under the United States or this State, shall execute the office of governor.

Sec. 14. The lieutenant-governor, and the president of the Senate *pro tempore*, while performing the office of governor, shall receive the same compensation as the Governor.

Sec. 15. All official acts of the Governor—his approval of the laws excepted—shall be authenticated by the great seal of the State, which seal shall be kept by the Secretary of State.

Sec. 16. The governor shall, by and with the advice and consent of the Senate, appoint a convenient number of notaries public, not to exceed six for each county, who shall discharge such duties as are now or as may hereafter be prescribed by law.

Sec. 17. All commissions issued to persons holding office under the provisions of this constitution shall be in the name, and by the authority of the people of the State of Arkansas, sealed with the great seal of the State, signed by the governor and countersigned by the secretary of state.

Sec. 18. The governor, chief justice, secretary of state, treasurer, auditor, attorney-general and superintendent of public instruction, shall severally reside and keep all public records, books, papers and documents which may pertain to their respective offices, at the seat of government.

Sec. 19. The returns of every election for Governor, Lieutenant-Governor, Secretary of State, treasurer, auditor, attorney-general and superintendent of public instruction, shall be sealed up and transmitted to the seat of government by the returning officers and directed to the presiding officer of the senate, who, during the first week of the session shall open and publish the same in presence of the members then assembled. The person having the highest number of votes shall be declared elected, but if two or more shall have the highest and equal number of votes for the same office, one of them shall be chosen by a joint vote of both houses. Contested elections shall likewise be determined by both houses of the general assembly in such manner as is or may hereafter be prescribed by law.

SEC. 20. The secretary of state shall keep a fair record of all official acts and proceedings of the governor, and shall, when required, lay the same and all papers, minutes and vouchers relative thereto, before the general assembly, and shall perform such other duties as are now or may hereafter be prescribed by law.

SEC. 21. The auditor, treasurer, attorney-general, and superintendent of public instruction, shall perform such duties as are now, or may hereafter be prescribed by law.

SEC. 22. In case of the death, impeachment, removal from the State, or other disability of the secretary of state, treasurer, auditor, attorney-general, and superintendent of public instruction, the vacancies in their several offices thus occasioned shall be filled by appointment of the governor; which appointment shall be made for the unexpired terms of said officers, or until said disabilities are removed, or until elections are held to fill said vacancies.

SEC. 23. Until the general assembly shall otherwise provide, the Governor shall appoint a suitable person, who shall be styled commissioner of public works and internal improvements, who shall hold his office during the term of four years, and until his successor is duly commissioned and qualified. It shall be the duty of the commissioner of public works and internal improvements to superintend all public works which may be carried on by the State, and have a supervising control over all internal improvements in which the State is interested, and, until otherwise provided by the general assembly he shall be *ex officio* commissioner of immigration and of State lands, and shall perform such other duties as may be prescribed by law. He shall receive for his services the same salary as provided by law for the auditor of the State.

SEC. 24. The officers of the executive department, mentioned in this article, shall, at stated times, receive for their services a compensation to be established by law, which shall not be diminished during the period for which they shall have been elected or appointed.

SEC. 25. The officers of the executive department and judges of the supreme court shall not be eligible, during the period for which they may be elected or appointed to their respective offices, to any position in the gift of the qualified electors, or of the general assembly of this State.

SEC. 26. The returns of every election for State, county and judicial officers, not herein provided for shall be sealed up and transmitted to the seat of government by the returning officers, and directed to the secretary of state who shall open and publish the same, and the persons so elected shall be duly commissioned by the governor.

ARTICLE VII

JUDICIARY

SECTION 1. The judicial power of the State shall be vested in the senate sitting as a court of impeachment, a supreme court, circuit courts, and such other courts inferior to the supreme court as the general assembly may from time to time establish.

SEC. 2. The house of representatives shall have the sole power of impeachment. All impeachments shall be tried by the senate. When

sitting for that purpose the senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the members thereof. The chief justice shall preside, and the secretary of state shall act as clerk of this court: *Provided*, That in case of the trial of either of them the person appointed temporarily to perform the duties of the office shall act. The governor, and all other civil officers under this State, shall be liable to impeachment for any misconduct or maladministration of their respective offices; but judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of honor, trust, or profit, under this State. The party, whether convicted or acquitted, shall nevertheless be liable to indictment, trial and judgment according to law.

SEC. 3. Two terms of the supreme court shall be held at the seat of government annually: *Provided*, That the general assembly may provide by law for holding said court at three other places. The supreme court shall consist of one chief justice, who shall be appointed by the governor, by and with the advice and consent of the senate, for the term of eight years, and four associate justices, who shall be chosen by the qualified electors of the State at large for the term of eight years: *Provided*, That two of the associate justices first chosen under this constitution shall serve for four years after the next general election, and two of them for eight years after said election, said times to be determined by lot; but thereafter the associate justices shall be chosen for the full term.

SEC. 4. The supreme court shall have general supervision and control over all inferior courts of law and equity. It shall have power to issue writs of error, *supersedeas*, *certiorari*, *habeas corpus*, *mandamus*, *quo warranto*, and other remedial writs, and to hear and determine the same. Final judgments in the inferior courts may be brought by writ of error, or by appeal, into the supreme court in such manner as may be prescribed by law.

SEC. 5. The inferior courts of the State as now constituted by law, except as hereinafter provided, shall remain with the same jurisdiction as they now possess: *Provided*, That the general assembly may provide for the establishment of such inferior courts, changes of jurisdiction, or abolition of existing inferior courts, as may be deemed requisite. The judges of the inferior courts herein provided for, or of such as may hereafter be established by law, shall be appointed by the governor, by and with the advice and consent of the senate, for the term of six years, and until such time as the General Assembly may otherwise direct: *Provided*, That the General Assembly shall not interfere with the term of office of any judge.

SEC. 6. All writs and other processes shall run in the name of the State of Arkansas, and bear teste and be signed by the clerks of the respective courts from which they issue. Indictments shall conclude "against the peace and dignity of the State of Arkansas."

SEC. 7. No judge shall preside on the trial of any cause in the event of which he may be interested, or where either of the parties shall be connected with him by affinity or consanguinity within such degrees as may be prescribed by law, or in which he may have been counsel, or have presided in any inferior court.

SEC. 8. In case all or any of the Judges of the Supreme Court shall be disqualified from presiding on any cause or causes, the court or

judges thereof shall certify the same to the Governor of the State, and he shall immediately commission specially the required number of men learned in the law, for the trial and determination thereof.

SEC. 9. Whenever, at ten o'clock, a. m., of the second day of any term of the inferior courts of this State, the judge thereof is not present, or if present and he cannot for any cause properly preside at the trial of any case then pending therein, the attorneys of said court then present may elect a special judge, who shall preside during the trial of such case or cases, or shall hold said court until the appearance of the regular judge thereof. The proceedings in such cases shall be entered at large upon the record.

SEC. 10. The judges of the inferior courts may temporarily exchange circuits, or hold courts for each other under such regulations as may be prescribed by law.

SEC. 11. Judges shall not charge juries with regard to matters of fact, but shall declare the law. In all trials by jury the judges shall give their instructions and charges in writing; and if the trial is by the court he shall reduce to writing his findings upon the facts in the case, and shall declare the law in the same manner he is required to do when instructing juries.

SEC. 12. Any judge whose appointment or election is herein provided for, shall be at least twenty-five years of age, a qualified elector of this State, and shall have been for one year an actual resident of the State, and shall reside in the circuit or district to which he may be appointed or elected.

SEC. 13. The Judges of the Supreme and inferior courts shall, at stated times, receive a compensation for their services as is now or may hereafter be provided by law, and which shall not be diminished during the respective terms for which they may be elected or appointed.

SEC. 14. The inferior courts shall hold annually such terms as the General Assembly may direct.

SEC. 15. All appeals from inferior courts shall be taken in such manner and to such courts as may be provided by law. Appeals may be taken from courts of justices of the peace to such courts and in such manner as may be prescribed by law.

SEC. 16. When a vacancy occurs in the office of Judge of the Supreme, or any of the inferior courts, it shall be filled by appointment of the Governor; which appointee shall hold his office the residue of the unexpired term, and until his successor is elected and qualified.

SEC. 17. The Supreme Court and such other courts as may be established by law shall be courts of record, and shall each have a common seal.

SEC. 18. The Supreme Court shall appoint a Clerk of such court, and also a Reporter of its decisions. The decisions of the Supreme Court shall be in writing and signed by the judges concurring therein. Any judge dissenting therefrom shall give the reasons of such dissent in writing, over his signature; all such decisions shall be filed in the office of the Clerk of the Supreme Court, and be published in such manner as the General Assembly may direct. The Clerk and Reporter shall hold their respective offices for the term of six years, subject to removal by the court for cause.

SEC. 19. A county Clerk shall be elected by the qualified electors in each organized county in this State for the term of four years, and

shall perform such duties and receive such fees as are now or may hereafter be prescribed by law.

SEC. 20. In each township in this State there shall be elected by the qualified electors thereof two Justices of the Peace, who shall hold their offices for the term of four years: *Provided*, That in such townships as may contain more than two hundred qualified electors, an additional justice of the peace may be chosen. Justices of the peace shall have exclusive original jurisdiction in all actions of contract and replevin where the amount in controversy does not exceed two hundred dollars, and concurrent jurisdiction with the circuit court where the amount in controversy does not exceed five hundred dollars. In criminal causes the jurisdiction of justices of the peace shall extend to all matters less than felony for final determination and judgment.

SEC. 21. Any suitor in any court in this State shall have the right to prosecute or defend his suit either in his own proper person or by attorney.

SEC. 22. In the courts of this State there shall be no exclusion of any witness in civil actions because he is a party to, or is interested in the issue to be tried; and no person convicted of infamous crime shall be a competent witness in any cause, without the consent of both parties to the controversy: *Provided*, That in actions by or against executors, administrators or guardians, in which judgment may be rendered for or against them, neither party shall be allowed to testify against the other as to any transactions with, or statements to, the testator, intestate or ward, unless called to testify thereto by the opposite party, or required to testify thereto by the court. The judges of the supreme and all inferior Courts shall be conservators of the peace throughout their respective jurisdictions.

ARTICLE VIII[a]

FRANCHISE

SECTION 1. In all elections by the people the electors shall vote by ballot.

SEC. 2. Every male person born in the United States, and every male person who has been naturalized, or has legally declared his intention to become a citizen of the United States, who is twenty-one years old or upward, and who shall have resided in the State six months next preceding the election, and who, at the time, is an actual resident of the county in which he offers to vote, except as hereinafter provided, shall be deemed an elector: *Provided*, No soldier, or sailor, or marine, in the military or naval service of the United States, shall acquire a residence by reason of being stationed on duty in this State.

SEC. 3. The following classes shall not be permitted to register, or vote, or hold office, viz:

1st. Those who during rebellion took the oath of allegiance, or gave bonds for loyalty and good behavior to the United States Government, and afterward gave aid, comfort or countenance to those engaged in armed hostility to the Government of the United States, either by becoming a soldier in the rebel army or by entering the lines of said army, or adhering in any way to the cause of rebellion,

[a]Amended April 19, 1873.

or by accompanying any armed force belonging to the rebel army, or by furnishing supplies of any kind to the same.

2d. Those who are disqualified as electors, or from holding office in the State or States from which they came.

3d. Those persons who during the late rebellion violated the rules of civilized warfare.

4th. Those who may be disqualified by the proposed amendment to the Constitution of the United States, known as Article XIV, and those who have been disqualified from registering to vote for delegates to the convention to frame a constitution for the State of Arkansas, under the act of Congress entitled "An act to provide for the more efficient government of the rebel States," passed March second, one thousand eight hundred and sixty-seven, and the acts supplementary thereto.

5th. Those who shall have been convicted of treason, embezzlement of public funds, malfeasance in office, crimes punishable by law with imprisonment in the penitentiary, or bribery.

6th. Those who are idiots or insane: *Provided*, That all persons included in the 1st, 2d, 3d and 4th, subdivisions of this section, who have openly advocated or who have voted for the reconstruction proposed by Congress and accept the equality of all men before the law, shall be deemed qualified electors under this constitution.

Sec. 4. The general assembly shall have the power by a two-thirds vote of each house, approved by the governor to remove the disabilities included in the 1st, 2d, 3d and 4th subdivisions of section three, of this article, when it appears that such person applying for relief from such disabilities, has in good faith returned to his allegiance to the Government of the United States: *Provided*, The general assembly shall have no power to remove the disabilities of any person embraced in the aforesaid subdivisions who, after the adoption of this constitution by this convention, persists in opposing the acts of Congress and reconstruction thereunder.

Sec. 5. All persons, before registering or voting must take and subscribe the following oath: "I, ——— ———, do solemnly swear, (or affirm,) that I will support and maintain the Constitution and laws of the United States, and the constitution and laws of the State of Arkansas; that I am not excluded from registering or voting by any of the clauses in the 1st, 2d, 3d, or 4th subdivisions of article VIII of the constitution of the State of Arkansas; that I will never countenance or aid in the secession of this State from the United States; that I accept the civil and political equality of all men, and agree not to attempt to deprive any person or persons, on account of race, color or previous condition, of any political or civil right, privilege or immunity enjoyed by any other class of men; and, furthermore, that I will not in any way injure, or countenance in others any attempt to injure person or persons, on account of past or present support of the Government of the United States, the laws of the United States or the principle of the political and civil equality of all men, or for affiliation with any political party:" *Provided*, That if any person shall knowingly and falsely take any oath in this constitution prescribed, such person so offending, and being thereof duly convicted, shall be subject to the pains, penalties and disabilities, which, by law are provided for the punishment of the crime of wilful and corrupt perjury.

SEC. 6. Electors shall in all cases except treason, felony, or breach of the peace, be privileged from arrest and civil process during their attendance at elections, and in going to and returning from the same.

SEC. 7. It shall be the duty of the general assembly to enact adequate laws giving protection against the evils arising from the use of intoxicating liquors at elections.

ARTICLE IX

EDUCATION

SECTION 1. A general diffusion of knowledge and intelligence among all classes, being essential to the preservation of the rights and liberties of the people; the general assembly shall establish and maintain a system of free schools, for the gratuitous instruction of all persons in this State, between the ages of five and twenty-one years, and the funds appropriated for the support of common schools shall be distributed to the several counties, in proportion to the number of children and youths therein between the ages of five and twenty-one years, in such manner as shall be prescribed by law, but no religious or other sect or sects shall ever have any exclusive right to, or control of any part of the school-funds of this State.

SEC. 2. The supervision of public schools shall be vested in a superintendent of public instruction, and such other officers as the general assembly shall provide. The superintendent of public instruction shall receive such salary and perform such duties as shall be prescribed by law.

SEC. 3. The general assembly shall establish and maintain a State university, with departments for instruction in teaching, in agriculture, and the natural sciences as soon as the public school fund will permit.

SEC. 4. The proceeds of all lands that have been or hereafter may be granted by the United States to this State, and not otherwise appropriated by the United States or this State; also, all mines, [moneys?] stocks, bonds, lands and other property, now belonging to any fund for purposes of education, also the net proceeds of all sales of lands and other property and effects that may accrue to this State by escheat, or from sales of estrays or from unclaimed dividends or distributive shares of the estates of deceased persons, or from fines, penalties or forfeitures, also, any proceeds of the sales of public lands which may have been or may be hereafter paid over to this State (Congress consenting,) also the grants, gifts or devices that have been or hereafter may be made to this State and not otherwise appropriated by the terms of the grant, gift or devise, shall be securely invested and sacredly preserved as a public school fund, which shall be the common property of the State; the annual income of which fund, together with one dollar *per capita* to be annually assessed on every male inhabitant of this State over the age of twenty-one years, and so much of the ordinary annual revenue of the State as may be necessary, shall be faithfully appropriated for establishing and maintaining the free schools and the university, in this article provided for, and for no other uses or purposes whatever.

Sec. 5. No part of the public school fund shall be invested in the stocks, or bonds or other obligations of any State, or any county, city, town or corporation. The stocks belonging to any school fund or university fund, shall be sold in such manner, and at such times as the general assembly shall prescribe, and the proceeds thereof, and the proceeds of the sales of any lands or other property which now belongs or may hereafter belong to said school fund, may be invested in the bonds of the United States.

Sec. 6. No township or school district shall receive any portion of the public school fund, unless a free school shall have been kept therein for not less than three months during the year, for which distribution thereof is made. The general assembly shall require by law, that every child of sufficient mental and physical ability, shall attend the public schools during the period between the ages of five and eighteen years, for a term equivalent to three years unless educated by other means.

Sec. 7. In case the public school fund shall be insufficient to sustain a free school at least three months in every year in each school district in this State, the general assembly shall provide by law, for raising such deficiency by levying such tax upon all taxable property in each county, township or school district as may be deemed proper.

Sec. 8. The general assembly shall as far as it can be done without infringing upon vested rights, reduce all lands, moneys, or other property used or held for school purposes in the various counties of this State, into the public school fund herein provided for.

Sec. 9. Provision shall also be made, by general laws, for raising such sum or sums of money by taxation, or otherwise in each school district as may be necessary for the building and furnishing of a sufficient number of suitable school-houses for the accommodation of all the pupils within the limits of the several school districts.

Article X

Finances, Taxation, Public Debt and Expenditures

Section 1. The levying of taxes by the poll is grievous and oppressive; therefor the general assembly shall never levy a poll-tax excepting for school purposes.

Sec. 2. Laws shall be passed taxing by a uniform rule all money credit, investments in bonds, joint-stock companies, or otherwise; and also all real and personal property according to its true value in money; but burying-grounds, public school-houses, houses used exclusively for public worship, institutions of purely public charity, public property used exclusively for any public purpose, shall never be taxed. Real estate shall be appraised at least once every five years by an appraiser to be provided for by law, at its true value in money. Personal property shall be appraised in such manner as may be provided by law at its true value in money, but the general assembly may exempt from taxation personal property to the value of five hundred dollars to each tax-payer.

Sec. 3. The general assembly shall provide by law, for taxing the notes and bills discounted or purchased, moneys loaned, and all other

property, effects or dues of every description, without deduction, of all banks now existing, or hereafter created, and of all bankers, so that all property employed in banking, shall always bear a burden of taxation equal to that imposed on other property of individuals.

SEC. 4. The general assembly shall provide for raising revenue sufficient to defray the expenses of the State for each year; and also a sufficient sum to pay the interest on the State debt.

SEC. 5. No tax shall be levied except in pursuance of law; and every law imposing a tax, shall state distinctly the object of the same.

SEC. 6. The credit of the State or counties shall never be loaned for any purpose without the consent of the people thereof expressed through the ballot-box.

SEC. 7. The general assembly may require the exhibit of receipts and expenditures of State and county officers at such time and manner as may be prescribed by law.

SEC. 8. No money shall be paid out of the treasury until the same shall have been appropriated by law.

SEC. 9. The State may contract debts to supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for; and the money arising from the creation of such debts shall be appropriated to the purpose for which it was obtained, or to pay the debt so contracted, and to no other.

SEC. 10. In addition to the above power the State may contract debts to repel invasion, suppress insurrection, preserve the public peace, defend the State in time of war, or to redeem the present outstanding indebtedness of the State; but the money arising from the contracting of such debts shall be applied to the purpose for which it was raised and no other; and all debts incurred to redeem the present outstanding indebtedness of the State, shall be so contracted as to be payable by the sinking-fund hereinafter provided for, as the same shall accumulate.

SEC. 11. The faith of the State being pledged for the payment of its debt, in order to provide therefor, there shall be created a sinking-fund; which shall be sufficient to pay the accruing interest on such debt, and annually to reduce the same. The said sinking-fund shall consist of such net earnings and profits of public institutions, bonds, stocks or other property of the State, or of any other funds or resources, that are or may be provided by law.

SEC. 12. The governor, secretary of state, and attorney-general, are hereby created a board of commissioners to be styled "the commissioners of the sinking-fund."

SEC. 13. The commissioners of the sinking-fund shall, immediately preceding each regular session of the general assembly, make an estimate of the probable amount of the fund provided by the eleventh section of this article, from all sources, except from taxation, and report the same, together with all their proceedings relative to said fund and debt, and transmit the same to the general assembly, and the general assembly shall make all necessary provision for raising and disbursing said sinking-fund, in pursuance of the provisions of this article.

SEC. 14. It shall be the duty of said commissioners faithfully to apply in such manner as the general assembly may by law direct, said fund, together with all moneys that may be by the general assembly

appropriated to that object, to the payment of the interest as it becomes due, and the redemption of the principal of the public debt of the State, excepting only school and trust funds held by the State.

SEC. 15. The principal arising from the sale of all lands donated to the State for school purposes, shall be paid into the treasury, and the State shall pay interest thereon, for the support of schools, at the rate of six per cent. per annum.

SEC. 16. The State shall never assume the debts of county, town, city or other corporations, unless such debts have been created to repel invasion, suppress insurrection, or to provide for the public welfare and defence.

SEC. 17. The general assembly shall tax all privileges, pursuits and occupations, that are of no real use to society; all others shall be exempt, and the amount thus raised shall be paid into the treasury.

ARTICLE XI

MILITIA

SECTION 1. All able-bodied electors in this State shall be liable to military duty in the militia of this State; but all citizens of any denomination whatever, who from scruples of conscience, may be adverse to bearing arms, shall be exempt therefrom upon such conditions as may be prescribed by law.

SEC. 2. The general assembly shall provide for organizing, equipping, and disciplining the militia in such manner as it shall deem expedient, not incompatible with the laws of the United States.

SEC. 3. The governor shall be commander-in-chief, and shall have power to call out the militia to execute the laws, to suppress insurrection, to repel invasion, and to preserve the public peace.

ARTICLE XII

EXEMPTED PROPERTY

SECTION 1. The personal property of any resident of this State, to the value of two thousand dollars, to be selected by such resident, shall be exempted from sale on execution or other final process of any court issued for the collection of any debt contracted after the adoption of this constitution.

SEC. 2. Hereafter the homestead of any resident of this State who is a married man or head of a family shall not be encumbered in any manner while owned by him, except for taxes, laborers, and mechanics' liens, and securities for the purchase-money thereof.

SEC. 3. Every homestead not exceeding one hundred and sixty acres of land, and the dwelling and appurtenances thereon, to be selected by the owner thereof, and not in any town, city, or village, or in lieu thereof, at the option of the owner, any lot in a city, town, or village, with the dwelling and appurtenances thereon, owned and occupied by any resident of this State, and not exceeding the value of five thousand dollars, shall be exempted from sale on execution or any other final process from any court; but no property shall be exempt from sale for taxes, for the payment of obligations contracted for the purchase of said premises, for the erection of improvements thereon, or for labor performed for the owner thereof: *Provided*,

That the benefit of the homestead herein provided for shall not be extended to persons who may be indebted for dues to the State, county, township, school, or other trust funds.

SEC. 4. If the owner of a homestead die, leaving a widow but no children, the same shall be exempt, and the rents and profits thereof shall accrue to her benefit during the time of her widowhood, unless she be the owner of a homestead in her own right.

SEC. 5. The homestead of a family after the death of the owner thereof shall be exempt from the payment of his debts in all cases during the minority of his children, and also so long as his widow shall remain unmarried, unless she be the owner of a homestead in her own right.

SEC. 6. The real and personal property of any female in this State, acquired either before or after marriage, whether by gift, grant, inheritance, devise, or otherwise, shall, so long as she may choose, be and remain the separate estate and property of such female, and may be devised or bequeathed by her the same as if she were a *feme-sole*. Laws shall be passed providing for the registration of the wife's separate property, and when so registered, and so long as it is not intrusted to the management or control of her husband otherwise than as an agent, it shall not be liable for any of his debts, engagements, or obligations.

ARTICLE XIII

AMENDMENTS TO THE CONSTITUTION

SECTION 1. Any amendments to this constitution may be proposed in either house of the general assembly, and if the same shall be agreed to by a majority of the members elected to each of the two houses such proposed amendment shall be entered on their journals, with the yeas and nays taken thereon, and referred to the legislature to be chosen at the next general election, and shall be published as provided by law for three months previous to the time of making such choice; and if in the general assembly so next chosen as aforesaid such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the general assembly to submit such proposed amendment or amendments to the people, in such manner and at such time as the general assembly shall provide; and if the people shall approve and ratify such amendment or amendments, by a majority of the electors qualified to vote for members of the general assembly voting thereon, such amendment or amendments shall become a part of the constitution of this State.

SEC. 2. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of said amendments separately.

ARTICLE XIV

APPORTIONMENT

SECTION 1. The congressional districts shall remain as they now are: *Provided*, That the general assembly may, at the first session held after the adoption of this constitution, redistrict the State for congressional purposes.

SEC. 2. Until after the apportionment, as herein provided for, the senatorial and representative districts shall be composed of the following counties, to wit: the 1st of Jackson, Craighead, Poinsett, Cross and Mississippi; 2d, of Lawrence, Randolph and Greene; 3d, of Madison, Marion, Carroll, Fulton and Izard; 4th, of Independence and Van Buren; 5th, of Searcy, Pope and Conway; 6th, of Newton, Johnson and Yell; 7th, of Washington and Benton; 8th, of Crawford, Franklin, and Sebastian; 9th, of Crittenden, Saint Francis and Woodruff; 10th, of Pulaski and White; 11th, of Phillips and Monroe; 12th, of Prairie and Arkansas; 13th, of Scott, Polk, Montgomery and Hot Springs; 14th, of Hempstead; 15th, of Lafayette and Little River; 16th, of Union and Calhoun; 17th, of Clark, Pike and Sevier; 18th, of Columbia; 19th, of Ouachita; 20th, of Jefferson and Bradley; 21st, of Dallas, Saline and Perry; 22d, of Ashley, Chicot, Drew and Desha. The senators and representatives shall be apportioned among the several senatorial and representative districts as follows, to wit:

1st district—one senator and four representatives.
2d district—one senator and three representatives.
3d district—one senator and four representatives.
4th district—one senator and three representatives.
5th district—one senator and three representatives.
6th district—one senator and three representatives.
7th district—one senator and four representatives.
8th district—one senator and four representatives.
9th district—one senator and four representatives.
10th district—two senators and six representatives.
11th district—two senators and six representatives.
12th district—one senator and four representatives.
13th district—one senator and three representatives.
14th district—one senator and three representatives.
15th district—one senator and three representatives.
16th district—one senator and two representatives.
17th district—one senator and four representatives.
18th district—one senator and three representatives.
19th district—one senator and two representatives.
20th district—two senators and six representatives.
21st district—one senator and two representatives.
22d district—two senators and six representatives.

ARTICLE XV

MISCELLANEOUS PROVISIONS

SECTION 1. The President of the convention shall, immediately after the adjournment thereof, cause this constitution to be deposited in the office of the secretary of state, and shall transmit a copy of the same to the President of the United States, to be by him laid before the Congress of the United States.

SEC. 2. In all cases not otherwise provided for in this constitution, the general assembly may determine the mode of filling all vacancies in all offices, and of choosing all necessary officers, and shall define their respective powers and duties, and provide suitable compensation for all officers.

SEC. 3. All general elections shall be held on the Tuesday succeeding the first Monday in November, and shall be biennial, commencing at the general election of A. D. 1868; but all officers elected under the provisions of this constitution and schedule, except members of Congress, at the election commencing on the 13th day of March, 1868, shall hold and continue in office, in accordance with the provisions of this constitution, the same as though elected at the general election, to be held on the Tuesday succeeding the first Monday in November, eighteen hundred and sixty-eight; and no election shall be held for said officers at the general election of eighteen hundred and sixty-eight.

SEC. 4. All chartered cities and villages under the laws of this State shall hold their municipal elections for the year eighteen hundred and sixty-eight at such times and places as may be provided in this constitution and the schedule to the same.

SEC. 5. The term of office of all township and precinct officers shall expire thirty days after this constitution goes into effect, and the governor shall thereafter appoint such officers, whose term of office shall continue until the general assembly shall provide by law for an election of said officers.

SEC. 6. Until the general assembly shall otherwise provide, a prosecuting attorney for each judicial circuit shall be appointed by the governor, by and with the advice and consent of the senate, who shall hold his office for the term of four years, and until his successor is chosen and qualified: *Provided*, That the general assembly shall not interfere with the term of any appointed prosecuting attorney.

SEC. 7. The compensation of senators and representatives shall be six dollars per diem during the first session after the adoption of this constitution, but may afterwards be prescribed by law: *Provided*, No increase of compensation shall be prescribed which shall take effect until the period for which the members of the house of representatives then existing shall have expired.

SEC. 8. Senators and representatives shall receive twenty cents for each mile necessarily travelled in going to and returning from the seat of government in attending each session of the general assembly, until otherwise provided by law.

SEC. 9. All salaries, fees, and per diem, or other compensation of all State, county, town, or other officers within the State, shall be payable in such funds as may by law be receivable for State taxes.

SEC. 10. Any public fund set apart by the general assembly for one purpose shall not be used for another unless in each case otherwise specially authorized by law.

SEC. 11. This convention shall appoint not more than three persons, learned in the law, whose duty it shall be to revise and re-arrange the statute-laws of this State, both civil and criminal, so as to have but one law on any one subject; and also three other persons, learned in the law, whose duty it shall be to prepare a code of practice for the courts, both civil and criminal, in this State, by abridging and simplifying the rules of practice and laws in relation thereto; all of whom shall, at as early a day as practicable, report the result of their labors to the general assembly for their adoption or modification. The general assembly shall provide suitable compensation for said persons appointed as aforesaid.

SEC. 12. No county now established by law shall ever be reduced, by the establishment of any new county or counties, to less than six hundred square miles; nor shall any county be hereafter established which shall contain less than six hundred square miles.

SEC. 13. No indenture of any person hereafter made and executed out of this State, or, if made in this State, where the term of service exceeds one year, shall be of the least validity, except those given in cases of apprenticeships, which shall not be for a longer term than until the apprentice shall arrive at the age of twenty-one years if a male, or eighteen years if a female.

SEC. 14. All contracts for the sale or purchase of slaves are null and void, and no court of this State shall take cognizance of any suit founded on such contracts, nor shall any amount ever be collected or recovered on any judgment or decree which shall have been, or which hereafter may be, rendered on account of any such contract or obligation, on any pretext, legal or otherwise.

SEC. 15. There shall be a great seal of the State, which shall be kept and used officially by the secretary of state; and the seal heretofore in use in this State shall continue to be the great seal of the State until another shall have been adopted by the general assembly.

SEC. 16. Private seals are hereby abolished; and hereafter no distinction shall exist between sealed and unsealed instruments concerning contracts between individuals. All laws of this State not in conflict with this constitution shall remain in full force until otherwise provided by the general assembly, or until they expire by their own limitation. Nothing herein shall be construed to impair vested rights under provisions of existing laws.

SEC. 17. All officers of this State, executive, legislative and judicial, before they enter upon the duties of their respective offices, shall take the following oath: "I, ——— ———, do solemnly swear (or affirm) that I am not disfranchised by the Constitution or laws of the United States, or the constitution of the State of Arkansas; that I will honestly and faithfully support and defend the Constitution and laws of the United States, the Union of States, and the constitution and laws of the State of Arkansas; and that I will honestly and faithfully discharge the duties of the office on which I am about to enter, to the best of my ability. So help me God."

SEC. 18. The term of all officers elected or appointed under the provisions of this constitution, shall expire on the 1st day of January, eighteen hundred and seventy-three, unless herein otherwise provided.

SEC. 19. No one shall be precluded from being elected or appointed to any office by reason of having been a delegate to this convention or an officer of the same.

SEC. 20. No person shall be allowed or qualified to sit on any jury who is not a qualified elector.

SEC. 21. The general assembly may by general law, declare the legal rate of interest upon contracts in which no rate of interest is specified; but no law limiting the rate of interest for which individuals may contract in this State shall ever be passed.

SEC. 22. All judges and clerks of election appointed under provisions of this constitution shall take and subscribe to the oath of an elector, as provided in section 5 of Article VIII before they enter upon the duties of said offices; and said judges are hereby authorized

to administer the oath to each other and to the clerks; also to administer the same to all electors offering to vote. Said judges and clerks shall also swear to discharge their respective duties to the best of their ability, according to law. Judges of election may appoint a suitable number of persons, who shall, with themselves, be conservators of the peace; and they are hereby empowered to arrest all offenders. Any one refusing to act as such when called on by the judges, shall be subject to a fine of at least one hundred dollars, or imprisonment not less than six months, or both.

Schedule

Section 1. On the 13th day of March, A. D. one thousand eight hundred and sixty-eight, and such successive days as hereinafter provided, an election shall be held for members of the House of Representatives of the United States, governor, lieutenant-governor, secretary of state, auditor, treasurer, attorney-general, superintendent of public instruction, judges of the supreme court, members of the general assembly, and all county officers, and also for the submission of this constitution to the people for their adoption or rejection.

Sec. 2. Upon the days designated as aforesaid, every qualified elector under the provisions of this constitution may vote for all officers to be elected under this constitution at such election; and also for or against the adoption of this constitution.

Sec. 3. In voting for or against the adoption of this constitution, the words "For constitution" or "against constitution" shall be written or printed on the ballot of each voter, but no voter shall vote for or against this constitution on a separate ballot from that cast by him for officers to be elected at said election under this constitution.

Sec. 4. A board of commissioners is hereby appointed, to consist of James L. Hodges, Joseph Brooks, and the president of this convention, any two of whom shall constitute a quorum to transact business, who shall keep an office for the transaction of business in Little Rock, and who may employ such clerical force as may be necessary, said clerks not to receive more per day for each day actually employed than the per diem paid the assistant secretaries of this convention, and who are empowered and authorized to appoint, or cause to be appointed, suitable persons for judges and clerks of election in each county in this State, to hold the election therein for all State and county officers, and for members of the general assembly and of the House of Representatives of the United States, and also for the ratification of this constitution. Said election shall be held at such times and places in each county, commencing on the thirteenth day of March, and continuing on such successive days as the commissioners may direct, to secure a full and fair vote at such election.

Sec. 5. The judges of election appointed as aforesaid shall make returns of the same to said commissioners in such manner and under such regulations as said commissioners may prescribe, which returns shall show the number of votes cast at said election for and against this constitution, and the number cast for each candidate for the offices provided for in this constitution and schedule.

Sec. 6. Any person contesting the election under this constitution for any State officer or member of the general assembly, shall do so before said board of commissioners, who shall have power to decide

and declare the right to any office contested, and give the candidate legally elected a certificate of the same: *Provided*, Said commissioners may, in the cases of members of the general assembly whose right to the seats may be contested, refer the same to the general assembly for their determination. Said board of commissioners shall appoint the judges and clerks of the municipal elections to be held under the provisions of this constitution. Said judges shall conduct and make returns of said elections in the manner prescribed by the charter of the city or village in which said municipal election shall be held.

SEC. 7. Said commissioners shall appoint suitable persons as boards in every county, to hear and decide all cases of contested county elections.

SEC. 8. The said commissioners shall have power to inquire into the fairness or validity of the voting upon the ratification of this constitution, and to count the votes given at said election, and shall reject all fraudulent or illegal votes cast at said election; and said commissioners shall also have power, whenever it is made to appear that fraud, fear, violence, improper influence, or restraint were used, or persons were prevented or intimidated from voting at such elections, to take such steps, either by setting aside the election and ordering a new one, or rejecting votes, or correcting the result in any county or precinct as may in such cases be just and equitable.

SEC. 9. The said commissioners shall declare the result of the election upon the ratification of this constitution, and, if adopted, the president of this convention shall transmit a certified copy of the same, together with an abstract of the votes cast, to the President of the United States, to be by him laid before the Congress of the United States for their approval or rejection, and shall also declare the officers elected thereunder; and if declared ratified, the constitution shall from and after that date be in full force and effect.

SEC. 10. No person disqualified from voting or registering under this constitution shall vote for candidates for any office, nor shall be permitted to vote for the ratification or rejection of this constitution at the polls herein authorized. The governor and all other officers elected under this constitution shall enter upon the duties of their offices when they shall have been declared duly elected by said board of commissioners, and shall have been duly qualified. All officers shall qualify and enter upon the discharge of the duties of their offices within fifteen days after they have been duly notified of their election or appointment.

SEC. 11. Upon notice of the election or appointment and qualification of the officers elected or appointed under this constitution, the present incumbents of all State, county, and city offices shall vacate the same and turn over to the officers so elected or appointed and qualified hereunder all books, papers, records, moneys, and documents belonging or pertaining to said offices on application made by the officers elected or appointed and qualified under this constitution.

SEC. 12. Any person may vote at the polls herein authorized for the election of officers and ratification of this constitution whom the judges of said election shall be satisfied by oath of the person offering to vote, and such other satisfactory evidence as they may require, is a legally qualified elector under this constitution: *Provided*, The judges of election shall administer to every person offering to vote at said election the oath prescribed in this constitution.

SEC. 13. In the event that either of the three commissioners appointed by section 4 hereof should be a candidate for any office, the other two commissioners shall canvass the vote so far as it relates to that office, and issue the certificate to the person elected.

SEC. 14. In case of death or any disability of any member or members of said board of commissioners, the remaining commissioner or commissioners shall have power to fill the vacancy; and said commissioner or commissioners so appointed shall have full power to act as though originally appointed.

SEC. 15. Any person selling or giving away intoxicating liquor during the time of the election herein provided for, shall be punished by a fine not less than two hundred dollars for each and every offense, or imprisonment not less than six months, or both.

SEC. 16. Said commissioners shall provide suitable poll-books for each county, and such instructions as may be necessary to carry into effect the provisions of this schedule. Judges and clerks of election thus appointed shall receive the same per diem as the boards of registers provided for in the act entitled "An act to provide for the more efficient government of the rebel States," passed March second, eighteen hundred and sixty-seven, and acts supplementary thereto.

SEC. 17. The commissioners herein appointed shall receive for their services, for each day actually employed, such compensation per day, and allowances, and in such manner as are now provided for members of this convention. All expenses incurred under this schedule, not otherwise provided for, shall be paid out of the appropriation for defraying the expenses of this convention.

Done in convention, at Little Rock, the eleventh day of February, in the year of our Lord one thousand eight hundred and sixty-eight, and of the Independence of the United States the ninety-second. In witness whereof we have hereunto subscribed our names.

THOS. M. BOWEN, *President.*

JOHN G. PRICE, *Secretary.*

AMENDMENT TO CONSTITUTION OF 1868.

(April 19, 1873)

ARTICLE VIII

SECTION 1. The following class of persons shall not be permitted to register, vote or hold office in this State:

First. Persons who may have been convicted before any court in this State, or of the United States, or any other State of any crime punishable by law with death or confinement in the penitentiary: *Provided*, That any person disfranchised under this section who may be pardoned or his sentence commuted. Such pardon or commutation of sentence shall remove all disabilities imposed by this section.

Second. Paupers, idiots and insane persons.

SEC. 2. Every male person who has attained the age of twenty one years, and who is a citizen of the United States, or who has legally declared his intention to become a citizen thereof, who shall have resided in this State six months, and in the county in which he offered to vote ten days next preceding the election, shall be deemed

a qualified elector and entitled to vote, if registered, unless disqualified by some one of the clauses of section one of this article.

SEC. 3. In all elections by the people the electors shall vote by ballot. The secrecy of the ballot shall be preserved inviolate, and the General Assembly shall provide laws for that purpose. On the day of an election held by the people no elector shall be subject to arrest or any civil process. The General Assembly shall pass adequate laws to prevent the sale of intoxicating liquors on the day on which any election by the people may be held.

[Submitted to the people for ratification March 3, 1873, and declared ratified by proclamation of the Governor April 19, 1873. The act of January 23, 1873, providing for the submission of the amendment, declared that if the amendment should be ratified, it should be substituted and known as Article VIII.]

CONSTITUTION OF ARKANSAS—1874* [a]

PREAMBLE

We, the people of the State of Arkansas, grateful to Almighty God for the privilege of choosing our own form of Government; for our civil and religious liberty; and desiring to perpetuate its blessings and secure the same to ourselves and our posterity, do ordain and establish this constitution.

ARTICLE I

BOUNDARIES

We do declare and establish, ratify and confirm the following as the permanent boundaries of the State of Arkansas, that is to say: Beginning at the middle of the main channel of the Mississippi River, on the parallel of thirty-six degrees of north latitude, running thence west with said parallel of latitude to the middle of the main channel of the Saint Francis River; thence up the main channel of said last-named river to the parallel of thirty-six degrees thirty minutes of north latitude; thence west with the southern boundary-line of the State of Missouri to the southwest corner of said last-named State; thence to be bounded on the west to the north bank of Red River, as by act of Congress and treaties existing January 1, eighteen hundred and thirty-seven, defining the western limits of the Territory of Arkansas, and to be bounded across and south of Red River by the boundary-line of the State of Texas as far as to the northwest corner of the State of Louisiana; thence easterly with the northern boundary-line of said last-named State to the middle of the main channel of the Mississippi River; thence up the middle of the main channel of said last-named river, including an island in said river known as "Belle Point Island," and all other land originally surveyed and included as a part of the Territory or State of Arkansas to the thirty-sixth degree of north latitude, the place of beginning.

---

* Verified from Judge Rose's edition of the Constitution of Arkansas, 1836, pp. 18–144.

[a] This constitution was framed by a convention which assembled July 14, 1874. It was submitted to the people and ratified October 13, 1874. See bibliography.

SEAT OF GOVERNMENT

The seat of government of the State of Arkansas shall be and remain at Little Rock, where it is now established.

ARTICLE II

DECLARATION OF RIGHTS

SECTION 1. All political power is inherent in the people, and government is instituted for their protection, security, and benefit; and they have the right to alter, reform, or abolish the same in such manner as they may think proper.

SEC. 2. All men are created equally free and independent, and have certain inherent and inalienable rights; amongst which are those of enjoying and defending life and liberty; of acquiring, possessing, and protecting property and reputation; and of pursuing their own happiness. To secure these rights governments are instituted among men, deriving their just powers from the consent of the governed.

SEC. 3. The equality of all persons before the law is recognized, and shall ever remain inviolate; nor shall any citizen ever be deprived of any right, privilege, or immunity, nor exempted from any burden or duty, on account of race, color, or previous condition.

SEC. 4. The right of the people peaceably to assemble, to consult for the common good, and to petition, by address or remonstrance, the government, or any department thereof, shall never be abridged.

SEC. 5. The citizens of this State shall have the right to keep and bear arms, for their common defense.

SEC. 6. The liberty of the press shall forever remain inviolate. The free communication of thoughts and opinions is one of the invaluable rights of man; and all persons may freely write and publish their sentiments on all subjects, being responsible for the abuse of such right. In all criminal prosecutions for libel, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party charged shall be acquitted.

SEC. 7. The right of trial by jury shall remain inviolate, and shall extend to all cases at law, without regard to the amount in controversy; but a jury-trial may be waived by the parties in all cases, in the manner prescribed by law.

SEC. 8. No person shall be held to answer a criminal charge unless on the presentment or indictment of a grand jury, except in cases of impeachment, or cases such as the general assembly shall make cognizable by justices of the peace, and courts of similar jurisdiction; or cases arising in the Army and Navy of the United States; or in the militia, when in actual service in time of war or public danger; and no person, for the same offense, shall be twice put in jeopardy of life or liberty; but if in any criminal prosecution the jury be divided in opinion, the court before which the trial shall be had may, in its discretion, discharge the jury, and commit or bail the accused for trial, at the same or the next term of said court; nor shall any person be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty or property without due process

of law. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses, when the proof is evident or the presumption great.

SEC. 9. Excessive bail shall not be required, nor shall excessive fines be imposed; nor shall cruel or unusual punishments be inflicted; nor witnesses be unreasonably detained.

SEC. 10. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the county in which the crime shall have been committed: *Provided*, That the venue may be changed to any other county of the judicial district in which the indictment is found, upon the application of the accused, in such manner as now is, or may be prescribed by law; and to be informed of the nature and cause of the accusation against him, and to have a copy thereof; and to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to be heard by himself and his counsel.

SEC. 11. The privilege of the writ of *habeas corpus* shall not be suspended; except by the general assembly, in case of rebellion, insurrection, or invasion, when the public safety may require it.

SEC. 12. No power of suspending or setting aside the law or laws of the State, shall ever be exercised, except by the general assembly.

SEC. 13. Every person is entitled to a certain remedy in the laws for all injuries or wrongs he may receive in his person, property or character; he ought to obtain justice freely, and without purchase; completely and without denial; promptly and without delay; conformably to the laws.

SEC. 14. Treason against the State shall only consist in levying and making war against the same, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

SEC. 15. The right of the people of this State to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue, except upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized.

SEC. 16. No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in cases of fraud.

SEC. 17. No bill of attainder, *ex post facto* law, or law impairing the obligation of contracts shall ever be passed; and no conviction shall work corruption of blood or forfeiture of estate.

SEC. 18. The general assembly shall not grant to any citizen, or class of citizens, privileges or immunities which, upon the same terms, shall not equally belong to all citizens.

SEC. 19. Perpetuities and monopolies are contrary to the genius of a republic, and shall not be allowed; nor shall any hereditary emoluments, privileges or honors ever be granted or conferred in this State.

SEC. 20. No distinction shall ever be made by law, between resident aliens and citizens, in regard to the possession, enjoyment, or descent of property.

SEC. 21. No person shall be taken or imprisoned, or disseized of his estate, freehold, liberties or privileges; or outlawed, or in any manner destroyed, or deprived of his life, liberty, or property, except by the

judgment of his peers, or the law of the land; nor shall any person, under any circumstances, be exiled from the State.

Sec. 22. The right of property is before and higher than any constitutional sanction; and private property shall not be taken, appropriated, or damaged for public use, without just compensation therefor.

Sec. 23. The State's ancient right of eminent domain, and of taxation, is herein fully and expressly conceded; and the general assembly may delegate the taxing power, with the necessary restriction, to the State's subordinate, political, and municipal corporations, to the extent of providing for their existence, maintenance and well-being, but no further.

Sec. 24. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; no man can of right be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent. No human authority can, in any case or manner whatsoever, control or interfere with the right of conscience; and no preference shall ever be given by law to any religious establishment, denomination, or mode of worship above any other.

Sec. 25. Religion, morality, and knowledge being essential to good government, the general assembly shall enact suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship.

Sec. 26. No religious test shall ever be required of any person as a qualification to vote or hold office; nor shall any person be rendered incompetent to be a witness on account of his religious belief; but nothing herein shall be construed to dispense with oaths or affirmations.

Sec. 27. There shall be no slavery in this State, nor involuntary servitude, except as a punishment for crime. No standing army shall be kept in time of peace; the military shall at all times be in strict subordination to the civil power; and no soldier shall be quartered in any house or on any premises without the consent of the owner in time of peace; nor in time of war, except in a manner prescribed by law.

Sec. 28. All lands in this State are declared to be allodial; and feudal tenure of every description, with all their incidents, are prohibited.

Sec. 29. This enumeration of rights shall not be construed to deny or disparage others retained by the people; and to guard against any encroachments on the rights herein retained, or any transgression of any of the higher powers herein delegated, we declare that everything in this article is excepted out of the general powers of the government, and shall forever remain inviolate; and that all laws contrary thereto, or to the other provisions herein contained, shall be void.

Article III

FRANCHISE AND ELECTIONS

Section 1. Every male citizen of the United States, or male person who has declared his intention of becoming a citizen of the same, of the age of twenty-one years, who has resided in the State twelve

months, and in the county six months, and in the voting precinct or ward one month, next preceding any election, where he may propose to vote, shall be entitled to vote at all elections by the people.

SEC. 2. Elections shall be free and equal. No power, civil or military, shall ever interfere to prevent the free exercise of the right of suffrage; nor shall any law be enacted whereby the right to vote at any election shall be made to depend upon any previous registration of the elector's name; or whereby such right shall be impaired or forfeited, except for the commission of a felony at common law, upon lawful conviction thereof.

SEC. 3. All elections by the people shall be by ballot. Every ballot shall be numbered in the order in which it shall be received, and the number recorded by the election officers, on the list of voters, opposite the name of the elector who presents the ballot. The election officers shall be sworn or affirmed not to disclose how any elector shall have voted, unless required to do so as witnesses in a judicial proceeding, or a proceeding to contest an election.

SEC. 4. Electors shall in all cases (except treason, felony, and breach of the peace) be privileged from arrest during their attendance at elections, and going to and from the same.

SEC. 5. No idiot or insane person shall be entitled to the privileges of an elector.

SEC. 6. Any person who shall be convicted of fraud, bribery, or other wilful and corrupt violation of any election law of this State, shall be adjudged guilty of a felony, and disqualified from holding any office of trust or profit in this State.

SEC. 7. No soldier, sailor, or marine, in the military or naval service of the United States, shall acquire a residence by reason of being stationed on duty in this State.

SEC. 8. The general elections shall be held biennially, on the first Monday of September; but the general assembly may by law fix a different time.

SEC. 9. In trials of contested elections and in proceedings for the investigation of elections, no person shall be permitted to withhold his testimony on the ground that it may criminate himself, or subject him to public infamy; but such testimony shall not be used against him in any judicial proceeding, except for perjury in giving such testimony.

SEC. 10. No person shall be qualified to serve as an election officer, who shall hold, at the time of the election, any office, appointment, or employment in or under the Government of the United States, or of this State, or in any city or county, or any municipal board, commission or trust, in any city, save only the justices of the peace and aldermen, notaries public, and persons in the militia service of the State. Nor shall any election officer be eligible to any civil office to be filled at an election at which he shall serve, save only to such subordinate municipal or local offices, below the grade of city or county officers, as shall be designated by general law.

SEC. 11. If the officers of any election shall unlawfully refuse or fail to receive, count, or return the vote or ballot of any qualified elector, such vote or ballot shall nevertheless be counted upon the trial of any contest arising out of said election.

SEC. 12. All elections by persons acting in a representative capacity shall be *viva voce*.

Article IV

DEPARTMENT

Section 1. The powers of the government of the State of Arkansas shall be divided into three distinct departments, each of them to be confided to a separate body of magistracy, to wit: Those which are legislative, to one; those which are executive, to another; and those which are judicial, to another.

Sec. 2. No person or collection of persons, being of one of these departments, shall exercise any power belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

Article V

LEGISLATIVE

Section 1. The legislative power of this State shall be vested in a General Assembly, which shall consist of the senate and house of representatives.

Sec. 2. The house of representatives shall consist of members to be chosen every second year by the qualified electors of the several counties.

Sec. 3. The senate shall consist of members to be chosen every four years by the qualified electors of the several districts. At the first session of the senate, the senators shall divide themselves into two classes, by lot, and the first class shall hold their places for two years only, after which all shall be elected for four years.

Sec. 4. No person shall be a senator or representative, who, at the time of his election, is not a citizen of the United States, nor any one who has not been for two years next preceding his election, a resident of this State, and for one year next preceding his election, a resident of the county or district whence he may be chosen. Senators shall be at least twenty-five years of age, and representatives at least twenty-one years of age.

Sec. 5. The general assembly shall meet at the seat of government every two years, on the first Tuesday after the second Monday in November, until said time be altered by law.

Sec. 6. The governor shall issue writs of election, to fill such vacancies as shall occur in either house of the general assembly.

Sec. 7. No judge of the supreme, circuit or inferior courts of law or equity, Secretary of state, attorney-general for the State, auditor or treasurer, recorder, Clerk of any court of record, sheriff, coroner, member of Congress, nor any other person holding any lucrative office under the United States or this State, (militia officers, justices of the peace, postmasters, officers of public schools, and notaries excepted,) shall be eligible to a seat in either house of the general assembly.

Sec. 8. No person who now is, or shall be hereafter, a collector or holder of public money, nor any assistant or deputy of such holder or collector of public money, shall be eligible to a seat in either house of the general assembly, nor to any office of trust or profit, until he shall have accounted for and paid over all sums for which he may have been liable.

SEC. 9. No person hereafter convicted of embezzlement of public money, bribery, forgery, or other infamous crime, shall be eligible to the general assembly, or capable of holding any office of trust or profit in this State.

SEC. 10. No senator or representative shall, during the term for which he shall have been elected, be appointed or elected to any civil office under this State.

SEC. 11. Each house shall appoint its own officers, and shall be sole judge of the qualifications, returns, and elections of its own members. A majority of all the members elected to each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and compel the attendance of absent members in such manner and under such penalties as each house shall provide.

SEC. 12. Each house shall have power to determine the rules of its proceedings, and punish its members or other persons for contempt or disorderly behavior in its presence; enforce obedience to its process; to protect its members against violence or offers of bribes, or private solicitations; and, with the concurrence of two-thirds, expel a member; but not a second time for the same cause. A member expelled for corruption shall not thereafter be eligible to either house, and punishment for contempt or disorderly behavior shall not bar an indictment for the same offence. Each house shall keep a journal of its proceedings, and, from time to time, publish the same, except such parts as require secrecy; and the yeas and nays on any question shall, at the desire of any five members, be entered on the journals.

SEC. 13. The sessions of each house and of committees of the whole shall be open, unless when the business is such as ought to be kept secret.

SEC. 14. Whenever an officer, civil or military, shall be appointed by the joint or concurrent vote of both houses, or by the separate vote of either house of the general assembly, the vote shall be taken *viva voce*, and entered on the journals.

SEC. 15. The members of the general assembly shall, in all cases except treason, felony, and breach or surety of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

SEC. 16. The members of the general assembly shall receive such per diem pay and mileage for their services as shall be fixed by law. No member of either house shall, during the term for which he has been elected, receive any increase of pay for his services under any law passed during such term. The term of all members of the general assembly shall begin on the day of their election.

SEC. 17. The regular biennial sessions shall not exceed sixty days in duration, unless by a vote of two-thirds of the members elected to each house of said general assembly: *Provided*, That this section shall not apply to the first session of the general assembly under this constitution, or when impeachments are pending.

SEC. 18. Each house, at the beginning of every regular session of the general assembly, and whenever a vacancy may occur, shall elect from its members a presiding officer, to be styled, respectively, the president of the senate and the speaker of the house of representatives; and whenever, at the close of any session, it may appear that

the term of the member elected president of the senate will expire before the next regular session, the senate shall elect another president from those members whose terms of office continue over, who shall qualify and remain president of the senate until his successor may be elected and qualified; and who, in the case of a vacancy in the office of governor, shall perform the duties and exercise the powers of governor as elsewhere herein provided.

SEC. 19. The style of the laws of the State of Arkansas shall be: "Be it enacted by the general assembly of the State of Arkansas."

SEC. 20. The State of Arkansas shall never be made defendant in any of her courts.

SEC. 21. No law shall be passed except by bill, and no bill shall be so altered or amended on its passage through either house as to change its original purpose.

SEC. 22. Every bill shall be read at length, on three different days, in each House; unless the rules be suspended by two-thirds of the house, when the same may be read a second or third time on the same day; and no bill shall become a law unless, on its final passage, the vote be taken by yeas and nays; the names of the persons voting for and against the same be entered on the journal; and a majority of each House be recorded thereon as voting in its favor.

SEC. 23. No law shall be revived, amended, or the provisions thereof extended or conferred, by reference to its title only; but so much therof as is revived, amended, extended or conferred, shall be re-enacted and published at length.

SEC. 24. The general assembly shall not pass any local or special law changing the venue in criminal cases; changing the names of persons, or adopting or legitimating children; granting divorces; vacating roads, streets, or alleys.

SEC. 25. In all cases where a general law can be made applicable, no special law shall be enacted; nor shall the operation of any general law be suspended by the Legislature for the benefit of any particular individual, corporation, or association, nor where the courts have jurisdiction to grant the powers, or the privileges, or the relief asked for.

SEC. 26. No local or special bill shall be passed, unless notice of the intention to apply therefor, shall have been published, in the locality where the matter or the thing to be affected may be situated; which notice shall be at least thirty days prior to the introduction into the general assembly of such bill, and in the manner to be provided by law. The evidence of such notice having been published, shall be exhibited in the general assembly before such act shall be passed.

SEC. 27. No extra compensation shall be made to any officer, agent, employé or contractor, after the service shall have been rendered, or the contract made; nor shall any money be appropriated or paid on any claim, the subject-matter of which shall not have been provided for by pre-existing laws; unless such compensation or claim, be allowed by bill passed by two-thirds of the members elected to each branch of the general assembly.

SEC. 28. Neither house shall, without the consent of the other, adjourn for more than three days; nor to any other place than that in which the two Houses shall be sitting.

Sec. 29. No money shall be drawn from the treasury except in pursuance of specific appropriation made by law, the purpose of which shall be distinctly stated in the bill; and the maximum amount which may be drawn shall be specified in dollars and cents; and no appropriations shall be for a longer period than two years.

Sec. 30. The general appropriation bill shall embrace nothing but appropriations for the ordinary expenses of the executive, legislative, and judicial departments of the State; all other appropriations shall be made by separate bills, each embracing but one subject.

Sec. 31. No State tax shall be allowed, or appropriation of money made, except to raise means for the payment of the just debts of the State, for defraying the necessary expenses of the government, to sustain common schools, to repel invasion, and suppress insurrection, except by a majority of two thirds of both Houses of the General assembly.

Sec. 32. No act of the General Assembly shall limit the amount to be recovered for injuries resulting in death, or for injuries to persons or property; and, in case of death from such injuries, the right of action shall survive, and the General Assembly shall prescribe for whose benefit such action shall be prosecuted.

Sec. 33. No obligation or liability of any railroad, or other corporation held or owned by this State, shall ever be exchanged, transferred, remitted, postponed, or in any way diminished by the general assembly; nor shall such liability or obligation be released, except by payment thereof into the State treasury.

Sec. 34. No new bill shall be introduced in either house during the last three days of the session.

Sec. 35. Any person who shall, directly or indirectly, offer, give, or promise any money, or thing of value, testimonial, privilege, or personal advantage, to any executive or judicial officer or member of the general assembly; and any such executive or judicial officer or member of the general assembly who shall receive or consent to receive any such consideration, either directly or indirectly, to influence his action in the performance or non-performance of his public or official duty, shall be guilty of a felony, and be punished accordingly.

Sec. 36. Proceedings to expel a member for a criminal offence, whether successful or not, shall not bar an indictment and punishment, under the criminal laws, for the same offence.

Article VI

EXECUTIVE DEPARTMENTS

Section 1. The executive department of this State shall consist of a governor, secretary of state, treasurer of state, auditor of state, and attorney-general; all of whom shall keep their offices in person at the seat of government, and hold their offices for the term of two years and until their successors are elected and qualified; and the general assembly may provide by law for the establishment of the office of commissioner of State lands.

Sec. 2. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled "the governor of the State of Arkansas."

SEC. 3. The governor, secretary of state, treasurer of state, auditor of state, and attorney-general shall be elected by the qualified electors of the State at large, at the time and places of voting for members of the general assembly; the returns of each election therefor shall be sealed up separately and transmitted to the seat of government by the returning officers, and directed to the speaker of the house of representatives, who shall, during the first week of the session, open and publish the votes cast and given for each of the respective officers hereinbefore mentioned, in the presence of both houses of the general assembly. The person having the highest number of votes, for each of the respective offices, shall be declared duly elected thereto; but if two or more shall be equal, and highest in votes for the same office, one of them shall be chosen by the joint vote of both houses of the general assembly, and a majority of all the members elected shall be necessary to a choice.

SEC. 4. Contested elections for governor, secretary of state, treasurer of state, auditor of state, and attorney-general shall be determined by the members of both houses of the general assembly, in joint session, who shall have executive jurisdiction in trying and determining the same, except as hereinafter provided in the case of special elections; and all such contests shall be tried and determined at the first session of the general assembly after the election in which the same shall have arisen.

SEC. 5. No person shall be eligible to the office of governor except a citizen of the United States, who shall have attained the age of thirty years and shall have been seven years a resident of this State.

SEC. 6. The governor shall be commander-in-chief of the military and naval forces of this State, except when they shall be called into the actual service of the United States.

SEC. 7. He may require information, in writing, from the officers of the executive department, on any subject relating to the duties of their respective offices, and shall see that the laws are faithfully executed.

SEC. 8. He shall give to the general assembly from time to time, and at the close of his official term to the next general assembly, information, by message, concerning the condition and government of the State, and recommend for their consideration such measures as he may deem expedient.

SEC. 9. A seal of the State shall be kept by the governor, used by him officially, and called the "Great Seal of the State of Arkansas."

SEC. 10. All grants and commissions shall be issued in the name, and by the authority of the State of Arkansas; sealed with the great seal of the State; signed by the Governor, and attested by the secretary of state.

SEC. 11. No member of Congress, or other person holding office under the authority of this State, or of the United States, shall exercise the office of Governor, except as herein provided.

SEC. 12. In case of the death, conviction on impeachment, failure to qualify, resignation, absence from the State, or other disability of the Governor, the powers, duties and emoluments of the office for the remainder of the term, or until the disability be removed, or a governor elected and qualified, shall devolve upon, and accrue, to the president of the Senate.

SEC. 13. If, during the vacancy of the office of Governor, the president of the Senate shall be impeached, removed from office, refuse to qualify, resign, die, or be absent from the State, the speaker of the house of representatives shall, in like manner, administer the government.

SEC. 14. Whenever the office of Governor shall become vacant by death, resignation, removal from office or otherwise, provided such vacancy shall not happen within twelve months next before the expiration of the term of office for which the late governor shall have been elected, the president of the senate or speaker of the house of representatives, as the case may be, exercising the powers of governor for the time being, shall, immediately cause an election to be held to fill such vacancy, giving by proclamation sixty days' previous notice thereof; which election shall be governed by the same rules prescribed for general elections of governor as far as applicable; the returns shall be made to the secretary of state, and the acting Governor, secretary of state and attorney-general shall constitute a board of canvassers, a majority of whom shall compare said returns, and declare who is elected; and if there be a contested election, it shall be decided as may be provided by law.

SEC. 15. Every bill which shall have passed both houses of the general assembly shall be presented to the governor; if he approve it, he shall sign it; but if he shall not approve it, he shall return it, with his objections, to the house in which it originated; which house shall enter the objections at large upon their journal, and proceed to reconsider it. If, after such reconsideration, a majority of the whole number elected to that house, shall agree to pass the bill, it shall be sent, with the objections, to the other house; by which, likewise, it shall be reconsidered, and; if approved by a majority of the whole number elected to that house, it shall be a law; but in such cases the votes of both houses shall be determined by "yeas and nays," and the names of the members voting for or against the bill, shall be entered on the journals. If any bill shall not be returned by the governor within five days, Sundays excepted, after it shall have been presented to him, the same shall be a law in like manner as if he had signed it; unless the general assembly, by their adjournment, prevent its return; in which case it shall become a law, unless he shall file the same, with his objections, in the office of the secretary of state, and give notice thereof, by public proclamation, within twenty days after such adjournment.

SEC. 16. Every order or resolution in which the concurrence of both houses of the general assembly may be necessary, except on questions of adjournment, shall be presented to the governor, and, before it shall take effect, be approved by him; or, being disapproved, shall be repassed by both houses, according to the rules and limitations prescribed in the case of a bill.

SEC. 17. The governor shall have power to disapprove of any item or items, of any bill making appropriation of money, embracing distinct items, and the part or parts of the bill approved shall be the law; and the item or items of appropriations disapproved, shall be void unless repassed according to the rules and limitations prescribed for the passage of other bills over the executive veto.

SEC. 18. In all criminal and penal cases, except in those of treason and impeachment, the governor shall have power to grant reprieves, commutations of sentence, and pardons, after conviction; and to remit fines and forfeitures, under such rules and regulations as shall be prescribed by law. In cases of treason, he shall have power, by and with the advice and consent of the Senate, to grant reprieves and pardons; and he may, in the recess of the senate, respite the sentence until the adjournment of the next regular session of the general assembly. He shall communicate to the general assembly at every regular session each case of reprieve, commutation, or pardon, with his reasons therefor, stating the name and crime of the convict, the sentence, its date, and the date of the commutation, pardon, or reprieve.

SEC. 19. The governor may, by proclamation, on extraordinary occasions, convene the general assembly at the seat of government, or at a different place, if that shall have become, since their last adjournment, dangerous from an enemy or contagious disease; and he shall specify in his proclamation the purpose for which they are convened, and no other business than that set forth therein shall be transacted until the same shall have been disposed of; after which they may, by a vote of two-thirds of all the members elected to both houses, entered upon their journals, remain in session not exceeding fifteen days.

SEC. 20. In cases of disagreement between the two houses of the general assembly, at a regular or special session, with respect to the time of adjournment, the governor may, if the facts be certified to him by the presiding officers of the two houses, adjourn them to a time not beyond the day of their next meeting; and on account of danger from an enemy or disease, to such other place of safety as he may think proper.

SEC. 21. The secretary of state shall keep a full and accurate record of all the official acts and proceedings of the governor, and, when required, lay the same, with all papers, minutes, and vouchers relating thereto, before either branch of the general assembly. He shall also discharge the duties of superintendent of public instruction, until otherwise provided by law.

SEC. 22. The treasurer of state, secretary of state, auditor of state, and attorney-general shall perform such duties as may be prescribed by law; they shall not hold any other office or commission, civil or military, in this State or under any State, or the United States, or any other power, at one and the same time; and in case of vacancy occurring in any of said offices, by death, resignation, or otherwise, the governor shall fill said office by appointment for the unexpired term.

SEC. 23. When any office, from any cause, may become vacant, and no mode is provided by the constitution and laws for filling such vacancy, the governor shall have the power to fill the same by granting a commission, which shall expire when the person elected to fill said office, at the next general election, shall be duly qualified.

Article VII

JUDICIAL DEPARTMENT

Section 1. The judicial power of the State shall be vested in one supreme court, in circuit courts, in county and probate courts, and in justices of the peace. The general assembly may also vest such jurisdiction as may be deemed necessary in municipal-corporation courts, courts of common pleas, where established; and, when deemed expedient, may establish separate courts of chancery.

Sec. 2. The supreme court shall be composed of three judges, one of whom shall be styled chief justice, and elected as such; any two of whom shall constitute a quorum, and the concurrence of two judges shall, in every case, be necessary to a decision.

Sec. 3. When the population of the State shall amount to one million, the general assembly may, if deemed necessary, increase the number of judges of the supreme court to five; and, on such increase, a majority of judges shall be necessary to make a quorum or a decision.

Sec. 4. The supreme court, except in cases otherwise provided by this constitution, shall have appellate jurisdiction only, which shall be co-extensive with the State, under such restrictions as may from time to time be prescribed by law. It shall have a general superintending control over all inferior courts of law and equity, and, in aid of its appellate and supervisory jurisdiction, it shall have power to issue writs of error and supersedeas, certiorari, habeas corpus, prohibition, mandamus, and quo warranto, and other remedial writs, and to hear and determine the same. Its judges shall be conservators of the peace throughout the State, and shall severally have power to issue any of the aforesaid writs.

Sec. 5. In the exercise of original jurisdiction, the Supreme Court shall have power to issue writs of quo warranto to the circuit judges and chancellors, when created, and to officers of political corporations when the question involved is the legal existence of such corporations.

Sec. 6. A judge of the supreme court shall be at least thirty years of age, of good moral character, and learned in the law; a citizen of the United States, and two years a resident of the State, and who has been a practising lawyer eight years, or whose service upon the bench of any court of record, when added to the time he may have practiced law, shall be equal to eight years. The judges of the supreme court shall be elected by the qualified electors of the State, and shall hold their offices during the term of eight years from the date of their commissions; but at the first meeting of the court after the first election under this constitution the judges shall, by lot, divide themselves into three classes; one of which shall hold his office for four, one for six, and the other for eight years; after which each judge shall be elected for a full term of eight years. A record shall be made in the court of this classification.

Sec. 7. The supreme court shall appoint its clerk and Reporter, who shall hold their offices for six years, subject to removal for good cause.

Sec. 8. The terms of the supreme court shall be held at the seat of government, at the times that now are, or may be, provided by law.

SEC. 9. In case all, or any of the judges of the supreme court shall be disqualified from presiding in any cause or causes, the court, or the disqualified judge, shall certify the same to the governor, who shall immediately commission the requisite number of men learned in the law, to sit in the trial and determination of such causes.

SEC. 10. The supreme judges shall, at stated times, receive a compensation for their services to be ascertained by law, which shall not be, after the adjournment of the next general assembly, diminished during the time for which they shall have been elected. They shall not be allowed any fees or perquisites of office, nor hold any other office of trust or profit under the State or the United States.

SEC. 11. The circuit court shall have jurisdiction in all civil and criminal cases, the exclusive jurisdiction of which may not be vested in some other court provided for by this constitution.

SEC. 12. The Circuit Courts shall hold their terms in each county, at such times and places as are, or may be, prescribed by law.

SEC. 13. The State shall be divided into convenient circuits, each circuit to be made up of contiguous counties, for each of which circuits a judge shall be elected; who, during his continuance in office, shall reside in and be a conservator of the peace within the circuit for which he shall have been elected.

SEC. 14. The circuit court shall exercise a superintending control and appellate jurisdiction over county, probate, court of common pleas, and corporation courts and justices of the peace; and shall have power to issue, hear, and determine all the necessary writs to carry into effect their general and specific powers, any of which writs may be issued upon order of the judge of the appropriate court in vacation.

SEC. 15. Until the general assembly shall deem it expedient to establish courts of chancery, the circuit courts shall have jurisdiction in matters of equity, subject to appeal to the supreme court, in such manner as may be prescribed by law.

SEC. 16. A judge of the circuit court shall be a citizen of the United States, at least twenty-eight years of age, of good moral character, learned in the law, two years a resident of the State, and shall have practised law six years, or whose service upon the bench of any court of record, when added to the time he may have practised law, shall be equal to six years.

SEC. 17. The judges of the Circuit Courts shall be elected by the qualified electors of the several circuits, and shall hold their offices for the term of four years.

SEC. 18. The judges of the circuit courts shall at stated times receive a compensation for their services to be ascertained by law, which shall not, after the adjournment of the first session of the General Assembly, be diminished during the time for which they are elected. They shall not be allowed any fees or perquisites of office, nor hold any other office of trust or profit under this State or the United States.

SEC. 19. The clerks of the circuit court shall be elected, by the qualified electors of the several counties, for the term of two years, and shall be *ex-officio* clerks of the county and probate courts, and recorder: *Provided*, That in any county having a population exceeding fifteen thousand inhabitants, as shown by the last Federal census, there shall be elected a county clerk, in like manner as clerk of the

circuit court, who shall be *ex-officio* clerk of the probate court of said county.

SEC. 20. No judge or justice shall preside in the trial of any cause in the event of which he may be interested, or where either of the parties shall be connected with him by consanguinity or affinity, within such degree as may be prescribed by law; or in which he may have been of counsel, or have presided in any inferior court.

SEC. 21. Whenever the office of judge of the circuit court of any county is vacant at the commencement of a term of such court, or the judge of said court shall fail to attend, the regular practising attorneys in attendance on said court may meet at 10 o'clock a. m., on the second day of the term and elect a judge to preside at such court, or until the regular judge shall appear; and if the judge of said court shall become sick, or die, or unable to continue to hold such court after its term shall have commenced, or shall from any cause be disqualified from presiding at the trial of any cause then pending therein, then the regular practising attorneys in attendance on said court may in like manner, on notice from the judge or clerk of said court, elect a judge to preside at such court or to try said causes; and the attorney so elected shall have the same power and authority in said court as the regular judge would have had if present and presiding; but this authority shall cease at the close of the term at which the election shall be made. The proceedings shall be entered at large upon the record. The special judge shall be learned in the law, and a resident of the State.

SEC. 22. The judges of the circuit courts may temporarily exchange circuits, or hold courts for each other, under such regulations as may be prescribed by law.

SEC. 23. Judges shall not charge juries with regard to matters of fact, but shall declare the law; and, in jury-trials, shall reduce their charge or instructions to writing, on the request of either party.

SEC. 24. The qualified electors of each circuit shall elect a prosecuting attorney, who shall hold his office for the term of two years; and he shall be a citizen of the United States, learned in the law, and a resident of the circuit for which he may be elected.

SEC. 25. The judges of the supreme, circuit, or chancery courts shall not, during their continuance in office, practise law, or appear as counsel in any court, State or Federal, within this State.

SEC. 26. The general assembly shall have power to regulate, by law, the punishment of contempts not committed in the presence or hearing of the courts, or in disobedience of process.

SEC. 27. The circuit court shall have jurisdiction, upon information, presentment, or indictment, to remove any county or township officer from office for incompetency, corruption, gross immorality, criminal conduct, malfeasance, misfeasance, or nonfeasance in office.

SEC. 28. The county courts shall have exclusive original jurisdiction in all matters relating to county taxes, roads, bridges, ferries, paupers, bastardy, vagrants, the apprenticeship of minors, the disbursement of money for county purposes, and in every other case that may be necessary to the internal improvement and local concerns of the respective counties. The county court shall be held by one judge, except in cases otherwise herein provided.

SEC. 29. The judge of the county court shall be elected by the qualified electors of the county for the term of two years. He shall be at

least twenty-five years of age, a citizen of the United States, a man of upright character, of good business education, and a resident of the State for two years before his election, and a resident of the county at the time of his election and during his continuance in office.

SEC. 30. The justices of the peace of each county shall sit with and assist the county judge in levying the county taxes, and in making appropriations for the expenses of the county, in the manner to be prescribed by law; and the county judge, together with a majority of said justices, shall constitute a quorum for such purposes; and in the absence of the county judge a majority of the justices of the peace may constitute the court, who shall elect one of their number to preside. The general assembly shall regulate by law the manner of compelling the attendance of such quorum.

SEC. 31. The terms of the county courts shall be held at the times that are now prescribed for holding the supervisors' courts, or may hereafter be prescribed by law.

SEC. 32. The general assembly may authorize the judge of the county court of any one or more counties, to hold severally a quarterly court of common pleas in their respective counties, which shall be a court of record, with such jurisdiction in matters of contract and other civil matters, not involving title to real estate, as may be vested in such court.

SEC. 33. Appeals from all judgments of county courts or courts of common pleas, when established, may be taken to the circuit court under such restrictions and regulations as may be prescribed by law.

SEC. 34. The judge of the county court shall be the judge of the court of probate, and have such exclusive original jurisdiction in matters relative to the probate of wills, the estates of deceased persons, executors, administrators, guardians, and persons of unsound mind, and their estates, as is now vested in the circuit court, or may be hereafter prescribed by law. The regular terms of the court of probate shall be held at the times that may hereafter be prescribed by law.

SEC. 35. Appeals may be taken from judgments and orders of the probate court to the circuit court, under such regulations and restrictions as may be prescribed by law.

SEC. 36. Whenever a judge of the county or probate court may be disqualified from presiding, in any cause or causes pending in his court, he shall certify the facts to the governor of the State, who shall thereupon commission a special judge to preside in such cause or causes during the time said disqualification may continue, or until such cause or causes may be finally disposed of.

SEC. 37. The county judge shall receive such compensation for his services as presiding judge of the county court, as judge of the court of probate, and judge of the court of common pleas, when established, as may be provided by law. In the absence of the circuit judge from the county, the county judge shall have power to issue orders for injunction and other provisional writs in their counties, returnable to the court having jurisdiction: *Provided*, That either party may have such order reviewed by any superior judge in vacation in such manner as shall be provided by law. The county judge shall have power, in the absence of the circuit judge from the county, to issue, hear, and determine writs of *habeas corpus*, under such regulations and restrictions as shall be provided by law.

SEC. 38. The qualified electors of each township shall elect the justices of the peace for the term of two years, who shall be commissioned by the governor, and their official oath shall be indorsed on the commission.

SEC. 39. For every two hundred electors there shall be elected one justice of the peace; but every township, however small, shall have two justices of the peace.

SEC. 40. They shall severally have original jurisdiction in the following matters: First. Exclusive of the circuit court, in all matters of contract where the amount in controversy does not exceed the sum of one hundred dollars, excluding interest; and concurrent jurisdiction in matters of contract, where the amount in controversy does not exceed the sum of three hundred dollars, exclusive of interest. Second. Concurrent jurisdiction in suits for the recovery of personal property, where the value of the property does not exceed the sum of three hundred dollars; and in all matters of damage to personal property where the amount in controversy does not exceed the sum of one hundred dollars. Third. Such jurisdiction of misdemeanors as is now, or may be prescribed by law. Fourth. To sit as examining courts and commit, discharge or recognize offenders to the court having jurisdiction, for further trial, and to bind persons to keep the peace, or for good behavior. Fifth. For the foregoing purposes, they shall have power to issue all necessary process. Sixth. They shall be conservators of the peace within their respective counties: *Provided*, A justice of the peace shall not have jurisdiction where a lien on land, or title or possession thereto is involved.

SEC. 41. A justice of the peace shall be a qualified elector and a resident of the township for which he is elected.

SEC. 42. Appeals may be taken from the final judgments of the justices of the peace to the circuit courts, under such regulations as are now or may be provided by law.

SEC. 43. Corporation courts, for towns and cities, may be invested with jurisdiction concurrent with justices of the peace in civil and criminal matters; and the general assembly may invest such of them as it may deem expedient with jurisdiction of any criminal offences not punishable by death or imprisonment in the penitentiary, with or without indictment, as may be provided by law; and, until the general assembly shall otherwise provide, they shall have the jurisdiction now provided by law.

SEC. 44. The Pulaski chancery court shall continue in existence until abolished by law, or the business pending at the adoption of this constitution shall be disposed of, or the pending business be transferred to other courts. The judge and clerk of said court shall hold office for the term of two years, and shall be elected by the qualified voters of the State. All suits and proceedings which relate to sixteenth-section lands or money due for said lands, shall be transferred to the respective countries where such lands are located, in such manner as shall be provided by the general assembly at the next session.

SEC. 45. The separate criminal courts established in this State are hereby abolished, and all the jurisdiction exercised by said criminal courts is vested in the circuit courts of the respective counties; and all causes now pending therein are hereby transferred to said circuit courts respectively. It shall be the duty of the clerks of said criminal courts to transfer all the records, books, and papers pertaining to said criminal courts to the circuit courts of their respective counties.

SEC. 46. The qualified electors of each county shall elect one sheriff, who shall be *ex-officio* collector of taxes, unless otherwise provided by law; one assessor; one coroner; one treasurer, who shall be *ex-officio* treasurer of the common-school fund of the county; and one county surveyor, for the term of two years, with such duties as are now or may be prescribed by law: *Provided*, That no per centum shall ever be paid to assessors upon the valuation or assessment of property by them.

SEC. 47. The qualified electors of each township shall elect a constable, for the term of two years, who shall be furnished, by the presiding judge of the county court, with a certificate of election, on which his official oath shall be indorsed.

SEC. 48. All officers provided for in this article, except constables, shall be commissioned by the governor.

SEC. 49. All writs and other judicial process shall run in the name of the State of Arkansas, bear test, and be signed by the clerks of the respective courts from which they issue. Indictments shall conclude: "Against the peace and dignity of the State of Arkansas."

SEC. 50. All vacancies occurring in any office provided for in this article shall be filled by special election, save that in case of vacancies occurring in county and township offices, six months, and in other offices nine months, before the next general election, such vacancies shall be filled by appointment by the governor.

SEC. 51. That in all cases of allowances made for or against counties, cities, or towns, an appeal shall lie to the circuit court of the county, at the instance of the party aggrieved, or on the intervention of any citizen or resident and tax-payer of such county, city, or town, on the same terms and conditions on which appeals may be granted to the circuit court in other cases; and the matter pertaining to any such allowance shall be tried in the circuit court *de novo*. In case an appeal be taken by any citizen, he shall give a bond, payable to the proper county, conditioned to prosecute the appeal and save the county from costs on account of the same being taken.

SEC. 52. That in all cases of contest for any county, township, or municipal office, an appeal shall lie, at the instance of the party aggrieved, from any inferior board, council, or tribunal to the circuit court, on the same terms and conditions on which appeals may be granted to the circuit court in other cases, and on such appeals the case shall be tried *de novo*.

ARTICLE VIII

APPORTIONMENT

SECTION 1. The House of Representatives shall consist of not less than seventy-three, nor more than one hundred members.

Each county now organized shall always be entitled to one Representative, the remainder to be apportioned among the several counties according to the number of adult male inhabitants, taking two thousand as the ratio, until the number of representatives amounts to one hundred, when they shall not be further increased; but the ratio of representation shall, from time to time, be increased as hereinafter provided; so that the representatives shall never exceed that number. And until the enumeration of the inhabitants is taken by the United

States Government A. D. 1880, the representatives shall be apportioned among the several counties as follows:

The county of Arkansas shall elect one representative.
The county of Ashley shall elect one representative.
The county of Benton shall elect two representatives.
The county of Boone shall elect one representative.
The county of Bradley shall elect one representative.
The county of Baxter shall elect one representative.
The county of Calhoun shall elect one representative.
The county of Carroll shall elect one representative.
The county of Chicot shall elect one representative.
The county of Columbia shall elect two representatives.
The county of Clark shall elect two representatives.
The county of Conway shall elect one representative.
The county of Craighead shall elect one representative.
The county of Crawford shall elect one representative.
The county of Cross shall elect one representative.
The county of Crittenden shall elect one representative.
The county of Clayton shall elect one representative.
The county of Dallas shall elect one representative.
The county of Desha shall elect one representative.
The county of Drew shall elect one representative.
The county of Dorsey shall elect one representative.
The county of Franklin shall elect one representative.
The county of Fulton shall elect one representative.
The county of Faulkner shall elect one representative.
The county of Grant shall elect one representative.
The county of Greene shall elect one representative.
The county of Garland shall elect one representative.
The county of Hempstead shall elect two representatives.
The county of Hot Spring shall elect one representative.
The county of Howard shall elect one representative.
The county of Independence shall elect two representatives.
The county of Izard shall elect one representative.
The county of Jackson shall elect one representative.
The county of Jefferson shall elect three representatives.
The county of Johnson shall elect one representative.
The county of La Fayette shall elect one representative.
The county of Lawrence shall elect one representative.
The county of Little River shall elect one representative.
The county of Lonoke shall elect two representatives.
The county of Lincoln shall elect one representative.
The county of Lee shall elect two representatives.
The county of Madison shall elect one representative.
The county of Marion shall elect one representative.
The county of Monroe shall elect one representative.
The county of Montgomery shall elect one representative.
The county of Mississippi shall elect one representative.
The county of Nevada shall elect one reperesentative.
The county of Newton shall elect one representative.
The county of Ouachita shall elect two representatives.
The county of Perry shall elect one representative.
The county of Phillips shall elect three representatives.

The county of Pike shall elect one representative.
The county of Polk shall elect one representative.
The county of Pope shall elect one representative.
The county of Poinsett shall elect one representative.
The county of Pulaski shall elect four representatives.
The county of Prairie shall elect one representative.
The county of Randolph shall elect one representative.
The county of Saline shall elect one representative.
The county of Sarber shall elect one representative.
The county of Scott shall elect one representative.
The county of Searcy shall elect one representative.
The county of Sebastian shall elect two representatives.
The county of Sevier shall elect one representative.
The county of Sharp shall elect one representative.
The county of Saint Francis shall elect one representative.
The county of Stone shall elect one representative.
The county of Union shall elect two representatives.
The county of Van Buren shall elect one representative.
The county of Washington shall elect three representatives.
The county of White shall elect two representatives.
The county of Woodruff shall elect one representative.
The county of Yell shall elect one representative.

SEC. 2. The legislature shall, from time to time, divide the State into convenient senatorial districts in such manner that the senate shall be based upon the adult male inhabitants of the State, each Senator representing an equal number as nearly as practicable; and until the enumeration of the inhabitants is taken by the United States Government, A. D. 1880, the districts shall be arranged as follows:

The counties of Greene, Craighead, and Clayton shall compose the first district, and elect one senator.

The counties of Randolph, Lawrence, and Sharp shall compose the second district, and elect one senator.

The counties of Carroll, Boone, and Newton shall compose the third district, and elect one senator.

The counties of Johnson and Pope shall compose the fourth district, and elect one senator.

The county of Washington shall compose the fifth district, and elect one senator.

The counties of Independence and Stone shall compose the sixth district, and elect one senator.

The counties of Woodruff, Saint Francis, Cross, and Crittenden shall compose the seventh district, and elect one senator.

The counties of Yell and Sarber shall compose the eighth district, and elect one senator.

The counties of Saline, Garland, Hot Spring, and Grant shall compose the ninth district, and elect one senator.

The counties of Pulaski and Perry shall compose the tenth district, and elect two senators.

The county of Jefferson shall compose the leventh district, and elect one senator.

The counties of Lonoke and Prairie shall compose the twelfth district, and elect one senator.

The counties of Arkansas and Monroe shall compose the thirteenth district, and elect one senator.

The counties of Phillips and Lee shall compose the fourteenth district, and elect one senator.

The counties of Desha and Chicot shall compose the fifteenth district, and elect one senator.

The counties of Lincoln, Dorsey and Dallas shall compose the sixteenth district, and elect one senator.

The counties of Drew and Ashley shall compose the seventeenth district, and elect one senator.

The counties of Bradley and Union shall compose the eighteenth district, and elect one senator.

The counties of Calhoun and Ouachita shall compose the nineteenth district, and elect one senator.

The counties of Hempstead and Nevada shall compose the twentieth district, and elect one senator.

The counties of Columbia and La Fayette shall compose the twenty-first district, and elect one senator.

The counties of Little River, Sevier, Howard and Polk shall compose the twenty-second district, and elect one senator.

The counties of Fulton, Izard, Marion and Baxter shall compose the twenty-third district, and elect one senator.

The counties of Benton and Madison shall compose the twenty-fourth district, and elect one senator.

The counties of Crawford and Franklin shall compose the twenty-fifth district, and elect one senator.

The counties of Van Buren, Conway and Searcy shall compose the twenty-sixth district, and elect one senator.

The counties of White and Faulkner shall compose the twenty-seventh district, and elect one senator.

The counties of Sebastian and Scott shall compose the twenty-eighth district, and elect one senator.

The counties of Poinsett, Jackson and Mississippi shall compose the twenty-ninth district, and elect one senator.

The counties of Clark, Pike and Montgomery shall compose the thirtieth district, and elect one senator.

And the senate shall never consist of less than thirty nor more than thirty-five members.

Sec. 3. Senatorial districts shall at all times consist of contiguous territory; and no county shall be divided in the formation of a senatorial district.

Sec. 4. The division of the State into senatorial districts, and the apportionment of representatives to the several counties, shall be made by the general assembly at the first regular session after each enumeration of the inhabitants of the State, by the Federal or the State government, shall have been ascertained, and at no other time.

Article IX

EXEMPTION

Section 1. The personal property of any resident of this State, who is not married or the head of a family, in specific articles, to be

selected by such resident, not exceeding in value the sum of two hundred dollars, in addition to his or her wearing-apparel, shall be exempt from seizure on attachment, or sale on execution or other process from any court issued for the collection of any debt by contract: *Provided*, That no property shall be exempt from execution for debts contracted for the purchase-money therefor while in the hands of the vendee.

SEC. 2. The personal property of any resident of this State, who is married or the head of a family, in specific articles to be selected by such resident, not exceeding in value the sum of five hundred dollars, in addition to his or her wearing-apparel, and that of his or her family, shall be exempt from seizure on attachment, or sale on execution or other process from any court, on debt by contract.

SEC. 3. The homestead of any resident of this State, who is married or the head of a family, shall not be subject to the lien of any judgment or decree of any court, or to sale under execution, or other process thereon, except such as may be rendered for the purchase-money, or for specific liens, laborers' or mechanics' liens for improving the same, or for taxes, or against executors, administrators, guardians, receivers, attorneys for moneys collected by them, and other trustees of an express trust, for moneys due from them in their fiduciary capacity.

SEC. 4. The homestead outside any city, town, or village, owned and occupied as a residence, shall consist of not exceeding one hundred and sixty acres of land, with the improvements thereon, to be selected by the owner: *Provided*, The same shall not exceed in value the sum of twenty-five hundred dollars, and in no event shall the homestead be reduced to less than eighty acres, without regard to value.

SEC. 5. The homestead in any city, town, or village, owned and occupied as a residence, shall consist of not exceeding one acre of land, with the improvements thereon, to be selected by the owner: *Provided*, The same shall not exceed in value the sum of two thousand five hundred dollars, and in no event shall such homestead be reduced to less than one-quarter of an acre of land, without regard to value.

SEC. 6. If the owner of a homestead die, leaving a widow, but no children, and said widow has no separate homestead in her own right, the same shall be exempt, and the rents and profits thereof shall vest in her during her natural life: *Provided*, That if the owner leaves children, one or more, said child or children shall share with said widow, and be entitled to half the rents and profits till each of them arrives at twenty-one years of age, each child's rights to cease at twenty-one years of age, and the shares to go to the younger children, and then all to go to the widow: *And provided*, That said widow or children may reside on the homestead or not. And, in case of the death of the widow, all of said homestead shall be vested in the minor children of the testator or intestate.

SEC. 7. The real and personal property of any *feme-covert* in this State, acquired either before or after marriage, whether by gift, grant, inheritance, devise, or otherwise, shall, so long as she may choose, be and remain her separate estate and property, and may be devised, bequeathed, or conveyed by her the same as if she were a *feme-sole;* and the same shall not be subject to the debts of her husband.

SEC. 8. The general assembly shall provide for the time and mode of scheduling the separate personal property of married women.

SEC. 9. The exemptions contained in the constitution of 1868 shall apply to all debts contracted since the adoption thereof, and prior to the adoption of this constitution.

SEC. 10. The homestead provided for in this article shall inure to the benefit of the minor children, under the exemptions herein provided, after the decease of the parents.

ARTICLE X

AGRICULTURE, MINING, AND MANUFACTURE

SECTION 1. The general assembly shall pass such laws as will foster and aid the agricultural, mining, and manufacturing interests of the State, and may create a bureau, to be known as the mining, manufacturing, and agricultural bureau.

SEC. 2. The general assembly, when deemed expedient, may create the office of State geologist, to be appointed by the governor, by and with the advice and consent of the senate, who shall hold his office for such time, and perform such duties, and receive such compensation as may be prescribed by law: *Provided*, That he shall be at all times subject to removal by the governor for incompetency or gross neglect of duty.

SEC. 3. The general assembly may, by general law, exempt from taxation for the term of seven years from the ratification of this constitution the capital invested in any or all kinds of mining and manufacturing business in this State, under such regulations and restrictions as may be prescribed by law.

ARTICLE XI

MILITIA

SECTION 1. The militia shall consist of all able-bodied male persons, residents of the State, between the ages of eighteen and forty-five years; except such as may be exempted by the laws of the United States, or this State, and shall be organized, officered, armed and equipped and trained in such manner as may be provided by law.

SEC. 2. Volunteer companies of infantry, cavalry or artillery, may be formed in such manner and with such restrictions as may be provided by law.

SEC. 3. The volunteer and militia forces shall in all cases (except treason, felony, and breach of the peace) be privileged from arrest during their attendance at muster and the election of officers, and in going to and returning from the same.

SEC. 4. The governor shall, when the general assembly is not in session, have power to call out the volunteers or militia, or both, to execute the laws, repel invasion, repress insurrection, and preserve the public peace; in such manner as may be authorized by law.

Article XII

MUNICIPAL AND PRIVATE CORPORATIONS

Section 1. All existing charters or grants of special or exclusive privileges under which a *bona-fide* organization shall not have taken place and business been commenced in good faith, at the time of the adoption of this constitution, shall thereafter have no validity.

Sec. 2. The general assembly shall pass no special act conferring corporate powers, except for charitable, educational, penal or reformatory purposes, where the corporations created are to be and remain under the patronage and control of the State.

Sec. 3. The general assembly shall provide, by general laws, for the organization of cities (which may be classified) and incorporated towns; and restrict their power of taxation, assessment, borrowing money, and contracting debts, so as to prevent the abuse of such power.

Sec. 4. No municipal corporation shall be authorized to pass any laws contrary to the general laws, of the State, nor levy any tax on real or personal property to a greater extent, in one year, than five mills on the dollar of the assessed value of the same: *Provided*, That to pay indebtedness existing at the time of the adoption of this constitution, an additional tax of not more than five mills on the dollar, may be levied.

Sec. 5. No county, city, town, or other municipal corporation shall become a stockholder in any company, association, or corporation; or obtain or appropriate money for, or loan its credit to, any corporation, association, institution or individual.

Sec. 6. Corporations may be formed under general laws; which laws may, from time to time, be altered or repealed. The general assembly shall have the power to alter, revoke or annul any charter of incorporation now existing and revocable at the adoption of this constitution, or any that may hereafter be created, whenever, in their opinion, it may be injurious to the citizens of this State; in such manner, however, that no injustice shall be done to the corporators.

Sec. 7. Except as herein provided, the State shall never become a stockholder in, or subscribe to, or be interested in, the stock of any corporation or association.

Sec. 8. No private corporation shall issue stocks or bonds, except for money or property actually received or labor done; and all fictitious increase of stock or indebtedness shall be void; nor shall the stock or bonded indebtedness of any private corporation be increased, except in pursuance of general laws, nor until the consent of the persons holding the larger amount, in value, of stock, shall be obtained at a meeting held after notice given for a period not less than sixty days, in pursuance of law.

Sec. 9. No property, nor right of way, shall be appropriated to the use of any corporation, until full compensation therefor shall be first made to the owner, in money; or first secured to him by a deposit of money; which compensation, irrespective of any benefit from any improvement proposed by such corporation, shall be ascertained by a jury of twelve men, in a court of competent jurisdiction, as shall be prescribed by law.

SEC. 10. No act of the general assembly shall be passed authorizing the issuing of bills, notes, or other paper which may circulate as money.

SEC. 11. Foreign corporations may be authorized to do business in this State, under such limitations and restrictions as may be prescribed by law: *Provided*, That no such corporation shall do any business in this State except while it maintains therein one or more known places of business, and an authorized agent or agents in the same, upon whom process may be served; and, as to contracts made or business done in this State, they shall be subject to the same regulations, limitations, and liabilities as like corporations of this State, and shall exercise no other or greater powers, privileges, or franchises than may be exercised by like corporations of this State; nor shall they have power to condemn or appropriate private property.

SEC. 12. Except as herein otherwise provided, the State shall never assume or pay the debt or liability of any county, town, city, or other corporation whatever, or any part thereof, unless such debt or liability shall have been created to repel invasion, suppress insurrection, or to provide for the public welfare and defence. Nor shall the indebtedness of any corporation to the State ever be released or in any manner discharged, save by payment into the public treasury.

ARTICLE XIII

COUNTIES, COUNTY-SEATS, AND COUNTY-LINES

SECTION 1. No county now established shall be reduced to an area of less than six hundred square miles, nor to less than five thousand inhabitants; nor shall any new county be established with less than six hundred square miles and five thousand inhabitants: *Provided*, That this section shall not apply to the counties of Lafayette, Pope, and Johnson, nor be so construed as to prevent the general assembly from changing the line between the counties of Pope and Johnson.

SEC. 2. No part of a county shall be taken off to form a new county, or a part thereof, without the consent of a majority of the voters in such part proposed to be taken off.

SEC. 3. No county-seat shall be established or changed without the consent of a majority of the qualified voters of the county to be affected by such change, nor until the place at which it is proposed to establish or change such county-seat shall be fully designated: *Provided*, That in formation of new counties, the county-seat may be located temporarily by provisions of law.

SEC. 4. In the formation of new counties, no line thereof shall run within ten miles of the county-seat of the county proposed to be divided, except the county-seat of Lafayette County.

SEC. 5. Sebastian County may have two districts and two county-seats, at which county, probate, and circuit courts shall be held as may be provided by law, each district paying its own expenses.

Article XIV

EDUCATION

Section 1. Intelligence and virtue being the safeguards of liberty and the bulwark of a free and good government, the State shall ever maintain a general, suitable, and efficient system of free schools, whereby all persons in the State, between the ages of six and twenty-one years, may receive gratuitous instruction.

Sec. 2. No money or property belonging to the public-school fund or to this State, for the benefit of schools or universities, shall ever be used for any other than for the respective purposes to which it belongs.

Sec. 3. The general assembly shall provide by general laws for the support of common schools by taxes, which shall never exceed in any one year two mills on the dollar on the taxable property of the State; and by an annual *per-capita* tax of one dollar, to be assessed on every male inhabitant of this State over the age of twenty-one years; *Provided*, The general assembly may, by general law, authorize school-districts to levy, by a vote of the qualified electors of such district, a tax, not to exceed five mills on the dollar in any one year for school purposes: *Provided further*, That no such tax shall be appropriated to any other purpose, nor to any other district than that for which it was levied.

Sec. 4. The supervision of public schools, and the execution of the laws regulating the same, shall be vested in and confided to, such officers as may be provided for by the general assembly.

Article XV

IMPEACHMENT AND ADDRESS

Section 1. The governor and all State officers, judges of the supreme and circuit courts, chancellors and prosecuting attorneys, shall be liable to impeachment for high crimes and misdemeanors, and gross misconduct in office; but the judgment shall go no further than removal from office and disqualification to hold any office of honor, trust or profit under this State. An impeachment, whether successful or not, shall be no bar to an indictment.

Sec. 2. The house of representatives shall have the sole power of impeachment. All impeachments shall be tried by the senate. When sitting for that purpose the senators shall be upon oath or affirmation; no person shall be convicted without the concurrence of two-thirds of the members thereof. The chief-justice shall preside, unless he is impeached or otherwise disqualified, when the senate shall select a presiding officer.

Sec. 3. The governor, upon the joint address of two-thirds of all the members elected to each house of the general assembly, for good cause, may remove the auditor, treasurer, secretary of state, attorney-general, judges of the supreme and circuit courts, chancellors, and prosecuting attorneys.

Article XVI

FINANCE AND TAXATION

Section 1. Neither the State, nor any city, county, town or other municipality in this State shall ever loan its credit for any purpose whatever; nor shall any county, city, town or other municipality ever issue any interest-bearing evidences of indebtedness; except such bonds as may be authorized by law to provide for, and secure the payment of, the present existing indebtedness; and the State shall never issue any interest-bearing treasury warrants or scrip.

Sec. 2. The general assembly shall, from time to time, provide for the payment of all just and legal debts of the State.

Sec. 3. The making of profit out of public moneys, or using the same for any purpose not authorized by law, by any officer of the State, or member or officer of the general assembly, shall be punishable as may be provided by law; but part of such punishment shall be disqualification to hold office in this State for a period of five years.

Sec. 4. The general assembly shall fix the salaries and fees of all officers in the State; and no greater salary or fee than that fixed by law shall be paid to any officer, employé, or other person, or at any rate other than par value; and the number and salaries of the clerks and employés of the different departments of the State shall be fixed by law.

Sec. 5. All property subject to taxation shall be taxed according to its value; that value to be ascertained in such manner as the general assembly shall direct, making the same equal and uniform throughout the State. No one species of property, from which a tax may be collected, shall be taxed higher than another species of property of equal value: *Provided*, The general assembly shall have power, from time to time, to tax hawkers, pedlers, ferries, exhibitions and privileges in such manner as may be deemed proper: *Provided further*, That the following property shall be exempt from taxation: public property used exclusively for public purposes, churches used as such, cemeteries used exclusively as such, school buildings and apparatus, libraries and grounds used exclusively for school purposes, and buildings and grounds and materials used exclusively for public charity.

Sec. 6. All laws exempting property from taxation other than as provided in this constitution shall be void.

Sec. 7. The power to tax corporations and corporate property shall not be surrendered or suspended by any contract or grant to which the State may be a party.

Sec. 8. The general assembly shall not have power to levy State taxes for any one year to exceed, in the aggregate, 1 per cent. of the assessed valuation of the property of the State for that year.

Sec. 9. No county shall levy a tax to exceed one-half of 1 per cent. for all purposes; but may levy an additional one-half of 1 per cent. to pay indebtedness existing at the time of the ratification of this constitution.

Sec. 10. The taxes of counties, towns, and cities shall only be payable in lawful currency of the United States, or the orders or warrants of said counties, towns, and cities, respectively.

SEC. 11. No tax shall be levied except in pursuance of law, and every law imposing a tax shall state distinctly the object of the same; and no moneys arising from a tax levied for any purpose shall be used for any other purpose.

SEC. 12. No money shall be paid out of the treasury until the same shall have been appropriated by law, and then only in accordance with said appropriation.

SEC. 13. Any citizen of any county, city, or town may institute suit in behalf of himself and all others interested, to protect the inhabitants thereof against the enforcement of any illegal exactions whatever.

ARTICLE XVII

RAILROADS, CANALS, AND TURNPIKES

SECTION 1. All railroads, canals, and turnpikes shall be public highways, and all railroad and canal companies shall be common carriers. Any association or corporation, organized for the purpose, shall have the right to construct and operate a railroad between any points within this State, and to connect at the State line with railroads of other States. Every railroad company shall have the right with its road to intersect, connect with, or cross any other road, and shall receive and transport each the other's passengers, tonnage, and cars, loaded or empty, without delay or discrimination.

SEC. 2. Every railroad, canal, or turnpike corporation operated or partly operated in this State, shall maintain one office therein, where transfers of its stock shall be made, and where its books shall be kept for inspection by any stockholder or creditor of such corporation; in which shall be recorded the amount of capital stock subscribed or paid in, and the amounts owned by them, respectively, the transfer of said stock, and the names and the places of residence of the officers.

SEC. 3. All individuals, associations, and corporations shall have equal right to have persons and property transported over railroads, canals, and turnpikes; and no undue or unreasonable discrimination shall be made in charges for or in facilities for transportation of freight or passengers within the State, or coming from or going to any other State. Persons and property transported over any railroad shall be delivered at any station at charges not exceeding the charges for transportation of persons and property of the same class, in the same direction, to any more distant station. But excursion and commutation tickets may be issued at special rates.

SEC. 4. No railroad, canal, or other corporation, or the lessees, purchasers, or managers of any railroad, canal, or corporation shall consolidate the stock, property, or franchises of such corporation with, or lease, or purchase the works or franchises of, or in any way control any other railroad or canal corporation owning or having under its control a parallel or competing line, nor shall any officer of such railroad or canal corporation act as an officer of any other railroad or canal corporation, owning or having control of a parallel or competing line; and the question whether railroads or canals are parallel or competing lines shall, when demanded by the party complainant, be decided by a jury as in civil issues.

SEC. 5. No president, director, officer, agent or employé of any railroad or canal company, shall be interested, directly or indirectly,

in the furnishing of material or supplies to such company, or in the business of transportation as a common carrier of freight or passengers over the works owned, leased, controlled or worked by such company. Nor in any arrangement which shall afford more advantageous terms, or greater facilities than are offered or accorded to the public. And all contracts and arrangements in violation of this section shall be void.

Sec. 6. No discrimination in charges, or facilities for transportation, shall be made between transportation companies and individuals, or in favor of either by abatement, drawback or otherwise, and no railroad or canal company, or any lessee, manager or employé thereof, shall make any preferences in furnishing cars or motive-power.

Sec. 7. The general assembly shall prevent, by law the granting of free passes by any railroad or transportation company to any officer of this State, legislative, executive or judicial.

Sec. 8. The General Assembly shall not remit the forfeiture of the charter of any corporation now existing, or alter or amend the same, or pass any general or special law for the benefit of such corporation, except on condition that such corporation shall thereafter hold its charter, subject to the provisions of this constitution.

Sec. 9. The exercise of the right of eminent domain shall never be abridged or so construed as to prevent the general assembly from taking the property and franchises of incorporated companies and subjecting them to public use, the same as the property of individuals.

Sec. 10. The General Assembly shall pass laws to correct abuses, and prevent unjust discrimination and excessive charges by railroad, canal and turnpike companies for transporting freight and passengers, and shall provide for enforcing such laws by adequate penalties and forfeitures.

Sec. 11. That rolling-stock and all other movable property belonging to any railroad company or corporation in this State shall be considered personal property, and shall be liable to execution and sale, in the same manner as the personal property of individuals; and the general assembly shall pass no law exempting any such property from execution and sale.

Sec. 12. All railroads, which are now or may be hereafter built and operated, either in whole or in part, in this State, shall be responsible for all damages to persons and property, under such regulations as may be prescribed by the general assembly.

Sec. 13. The directors of every railroad corporation shall annually make a report under oath to the auditor of public accounts, of all their acts and doings; which reports shall include such matters relating to railroads as may be prescribed by law; and the general assembly shall pass laws enforcing by suitable penalties, the provisions of this section.

Article XVIII

JUDICIAL CIRCUITS

Until otherwise provided by the General Assembly, the judicial circuits shall be composed of the following counties:

First—Phillips, Lee, Saint Francis, Prairie, Woodruff, White and Monroe.

Second—Mississippi, Crittenden, Cross, Poinsett, Craighead, Greene, Clayton and Randolph.

Third—Jackson, Independence, Lawrence, Sharp, Fulton, Izard, Stone and Baxter.

Fourth—Marion, Boone, Searcy, Newton, Madison, Carroll, Benton and Washington.

Fifth—Pope, Johnson, Franklin, Crawford, Sebastian, Sarber and Yell.

Sixth—Lonoke, Pulaski, Van Buren and Faulkner.

Seventh—Grant, Hot Spring, Garland, Perry, Saline and Conway.

Eighth—Scott, Montgomery, Polk, Howard, Sevier, Little River, Pike and Clark.

Ninth—Hempstead, Lafayette, Nevada, Columbia, Union, Ouachita, and Calhoun.

Tenth—Chicot, Drew, Ashley, Bradley, Dorsey, and Dallas.

Eleventh—Desha, Arkansas, Lincoln, and Jefferson.

Until otherwise provided by the general assembly, the circuit courts shall be begun and held in the several counties as follows:

FIRST CIRCUIT

White—First Monday in February and August.

Woodruff—Third Monday in February and August.

Prairie—Second Monday after the third Monday in February and August.

Monroe—Sixth Monday after the third Monday in February and August.

Saint Francis—Eighth Monday after the third Monday in February and August.

Lee—Tenth Monday after the third Monday in February and August.

Phillips—Twelfth Monday after the third Monday in February and August.

SECOND CIRCUIT

Mississippi—First Monday in March and September.

Crittenden—Second Monday in March and September.

Cross—Second Monday after the second Monday in March and September.

Poinsett—Third Monday after the second Monday in March and September.

Craighead—Fourth Monday after the second Monday in March and September.

Greene—Sixth Monday after the second Monday in March and September.

Clayton—Seventh Monday after the second Monday in March and September.

Randolph—Ninth Monday after the second Monday in March and September.

THIRD CIRCUIT

Jackson—First Monday in March and September.

Lawrence—Fourth Monday in March and September.

Sharp—Second Monday after the fourth Monday in March and September.

Fulton—Fourth Monday after the fourth Monday in March and September.

Baxter—Sixth Monday after the fourth Monday in March and September.

Izard—Seventh Monday after the fourth Monday in March and September.

Stone—Ninth Monday after the fourth Monday in March and September.

Independence—Tenth Monday after the fourth Monday in March and September.

FOURTH CIRCUIT

Marion—Second Monday in February and August.

Boone—Third Monday in February and August.

Searcy—Second Monday after the third Monday in February and August.

Newton—Third Monday after the third Monday in February and August.

Carroll—Fourth Monday after the third Monday in February and August.

Madison—Fifth Monday after the third Monday in February and August.

Benton—Sixth Monday after the third Monday in February and August.

Washington—Eighth Monday after the third Monday in February

FIFTH CIRCUIT

Greenwood district, Sebastian County—Third Monday in February and August.

Fort Smith district, Sebastian County—First Monday after the fourth Monday in February and August.

Crawford County—Fourth Monday after the fourth Monday in February and August.

Franklin County—Sixth Monday after the fourth Monday in February and August.

Sarber County—Eighth Monday after the fourth Monday in February and August.

Yell County—Tenth Monday after the fourth Monday in February and August.

Pope County—Twelfth Monday after the fourth Monday in February and August.

Johnson County—Fourteenth Monday after the fourth Monday in February and August.

SIXTH CIRCUIT

In the county of Pulaski on the first Monday in February, and continue twelve weeks if the business of said court require it.

In the county of Lonoke on the first Monday succeeding the Pulaski court, and continue two weeks if the business of said court require it.

In the county of Faulkner on the first Monday after the Lonoke court, and continue two weeks if the business of said court require it.

In the county of Van Buren on the first Monday after the Faulkner court, and continue two weeks if the business of said court require it.

FALL TERM, SIXTH CIRCUIT

In the county of Pulaski on the first Monday in October, and continue seven weeks if the business of said court require it.

In the county of Lonoke on the first Monday next after the Pulaski court, and continue two weeks if the business of said court require it.

In the county of Faulkner on the first Monday after the Lonoke court, and continue one week if the business of said court require it.

In the county of Van Buren on the first Monday after the Faulkner court, and continue one week if the business of said court require it.

SEVENTH CIRCUIT

Hot Spring—Second Monday in March and September.

Grant—Third Monday in March and September.

Saline—Fourth Monday in March and September.

Conway—Second Monday after fourth Monday in March and September.

Perry—Fourth Monday after the fourth Monday in March and September.

Garland—Fifth Monday after the fourth Monday in March and September.

EIGHTH CIRCUIT

Montgomery—First Monday in February and August.

Scott—First Monday after the first Monday in February and August.

Polk—Second Monday after the first Monday in February and August.

Sevier—Third Monday after the first Monday in February and August.

Little River—Fifth Monday after the first Monday in February and August.

Howard—Seventh Monday after the first Monday in February and August.

Pike—Eighth Monday after the first Monday in February and August.

Clark—Ninth Monday after the first Monday in February and August.

NINTH CIRCUIT

Calhoun—First Monday in March and September.

Union—Second Monday after the first Monday in March and September.

Columbia—Fourth Monday after the first Monday in March and September.

Lafayette—Sixth Monday after the first Monday in March and September.

Hempstead—Eighth Monday after the first Monday in March and September.

Nevada—Eleventh Monday after the first Monday in March and September.

Ouachita—Thirteenth Monday after the first Monday in March and September.

TENTH CIRCUIT

Dorsey—Third Monday in February and August.
Dallas—First Monday in March and September.
Bradley—Second Monday in March and September.
Ashley—Third Monday in March and September.
Drew—Second Monday after the third Monday in March and September.
Chicot—Fourth Monday after the third Monday in March and September.

ELEVENTH CIRCUIT

In the county of Desha on the first Monday in March and September.
In the county of Arkansas on the fourth Monday in March and September.
In the county of Lincoln on the third Monday after the fourth Monday in March and September.
In the county of Jefferson on the sixth Monday after the fourth Monday in March and September.

ARTICLE XIX

MISCELLANEOUS PROVISIONS

SECTION 1. No person who denies the being of a God shall hold any office in the civil departments of this State, nor be competent to testify as a witness in any court.

SEC. 2. No person who may hereafter fight a duel, assist in the same as second, or send, accept, or knowingly carry a challenge therefor, shall hold any office in the State for a period of ten years; and may be otherwise punished as the law may prescribe.

SEC. 3. No person shall be elected to or appointed to fill a vacancy in any office who does not possess the qualifications of an elector.

SEC. 4. All civil officers for the State at large shall reside within the State, and all district, county, and township officers within their respective districts, counties, and townships, and shall keep their offices at such places therein as are now, or may hereafter be, required by law.

SEC. 5. All officers shall continue in office after the expiration of their official terms until their successors are elected and qualified.

SEC. 6. No person shall hold or perform the duties of more than one office in the same department of the government at the same time, except as expressly directed or permitted by this constitution.

SEC. 7. Absence on business of the State, or of the United States, or on a visit, or on necessary private business, shall not cause a forfeiture of residence once obtained.

SEC. 8. It shall be the duty of the general assembly to regulate by law in what cases and what deductions from the salaries of public officers shall be made for neglect of duty in their official capacity.

SEC. 9. The general assembly shall have no power to create any permanent State office not expressly provided for by this constitution.

SEC. 10. Returns for all elections for officers who are to be commissioned by the governor, and for members of the general assembly,

except as otherwise provided by this constitution, shall be made to the secretary of state.

SEC. 11. The governor, secretary of state, auditor, treasurer, attorney-general, judges of the supreme court, judges of the circuit court, commissioner of State lands, and prosecuting attorneys shall each receive a salary to be established by law, which shall not be increased or diminished during their respective terms, nor shall any of them, except the prosecuting attorneys, after the adoption of this constitution, receive to his own use any fees, costs, perquisites of office, or other compensation; and all fees that may hereafter be payable by law, for any service performed by any officer mentioned in this section, except prosecuting attorneys, shall be paid in advance into the State treasury: *Provided*, That the salaries of the respective officers herein mentioned shall never exceed per annum for governor, the sum of $4,000; for Secretary of state, the sum of $2,500; for treasurer of state, the sum of $3,000; for auditor of state, the sum of $3,000; for attorney-general, the sum of $2,500; for commissioner of State lands, the sum of $2,500; for judges of the supreme court, each, the sum of $4,000; for judges of the circuit courts and chancellors, each, the sum of $3,000; for prosecuting attorneys, the sum of $400: *And provided further*, That the general Assembly shall provide for no increase of salaries of its members which shall take effect before the meeting of the next general assembly.

SEC. 12. An accurate and detailed statement of the receipts and expenditures of the public money, the several amounts paid, to whom and on what account, shall, from time to time, be published as may be prescribed by law.

SEC. 13. All contracts for a greater rate of interest than 10 per centum per annum shall be void, as to principal and interest, and the general assembly shall prohibit the same by law; but when no rate of interest is agreed upon the rate shall be 6 per centum per annum.

SEC. 14. No lottery shall be authorized by this State, nor shall the sale of lottery-tickets be allowed.

SEC. 15. All stationery, printing, paper, fuel, for the use of the General Assembly and other departments of government, shall be furnished, and the printing, binding and distributing of the laws, journals, department reports, and all other printing and binding, and the repairing and furnishing the halls and rooms used for the meetings of the general assembly and its committees, shall be performed under contract, to be given to the lowest responsible bidder, below such maximum price and under such regulations as shall be prescribed by law. No member or officer of any department of the government shall in any way be interested in such contracts, and all such contracts shall be subject to the approval of the governor, auditor and treasurer.

SEC. 16. All contracts for erecting or repairing public buildings or bridges in any county, or for materials therefor; or for providing for the care and keeping of paupers, where there are no almshouses, shall be given to the lowest responsible bidder, under such regulations as may be provided by law.

SEC. 17. The laws of this State, civil and criminal, shall be revised, digested, arranged, published and promulgated at such times, and in such manner as the general assembly may direct.

SEC. 18. The general assembly, by suitable enactments, shall require such appliances and means to be provided and used, as may be necessary to secure, as far as possible, the lives, health and safety of persons employed in mining, and of persons traveling upon railroads, and by other public conveyances, and shall provide for enforcing such enactments by adequate pains and penalties.

SEC. 19. It shall be the duty of the general assembly to provide by law, for the support of institutions for the education of the deaf and dumb, and of the blind; and also for the treatment of the insane.

SEC. 20. Senators and representatives, and all judicial and executive, State and county officers, and all other officers, both civil and military, before entering on the duties of their respective offices, shall take and subscribe to the following oath or affirmation: "I, ———, do solemnly swear (or affirm) that I will support the Constitution of the United States, and the constitution of the State of Arkansas, and that I will faithfully discharge the duties of the office of ——, upon which I am now about to enter."

SEC. 21. The sureties upon the official bonds of all State officers shall be residents of, and have sufficient property within, the State, not exempt from sale under execution, attachment or other process of any court, to make good their bonds, and the sureties upon the official bonds of all county officers shall reside within the counties where such officers reside, and shall have sufficient property therein, not exempt from such sale, to make good their bonds.

SEC. 22. Either branch of the general assembly, at a regular session thereof, may propose amendments to this constitution; and if the same be agreed to by a majority of all the members elected to each house, such proposed amendments shall be entered on the journals with the yeas and nays, and published in at least one newspaper in each county, where a newspaper is published, for six months immediately preceding the next general election for senators and representatives, at which time the same shall be submitted to the electors of the State for approval or rejection, and if a majority of the electors voting at such election adopt such amendments the same shall become a part of this constitution. But no more than three amendments shall be proposed or submitted at the same time. They shall be so submitted as to enable the electors to vote on each amendment separately.

SEC. 23. No officer of this State, nor of any county, city, or town, shall receive, directly or indirectly, for salary, fees, and perquisites, more than five thousand dollars net profit per annum in par funds, and any and all sums in excess of this amount shall be paid into the State, county, city, or town treasury, as shall hereafter be directed by appropriate legislation.

SEC. 24. The general assembly shall provide by law the mode of contesting elections in cases not specifically provided for in this constitution.

SEC. 25. The present seal of the State shall be and remain the seal of the State of Arkansas until otherwise provided by law, and shall be kept and used as provided in this constitution.

SEC. 26. Militia officers, and officers of the public schools, and notaries may be elected to fill any executive or judicial office.

SEC. 27. Nothing in this constitution shall be so construed as to

prohibit the general assembly from authorizing assessments on real property for local improvement, in towns and cities, under such regulations as may be prescribed by law; to be based upon the consent of the majority in value of the property-holders owning property adjoining the locality to be effected; but such assessments shall be *ad valorem* and uniform.

Schedule

Section 1. All laws now in force, which are not in conflict or inconsistent with this constitution, shall continue in force until amended or repealed by the general assembly, and all laws exempting property from sale on execution, or by decree of a court, which were in force at the time of the adoption of the constitution of 1868, shall remain in force with regard to contracts made before that time. Until otherwise provided by law, no distinction shall exist between sealed and unsealed instruments, concerning contracts between individuals, executed since the adoption of the constitution of 1868: *Provided*, That the statutes of limitation with regard to sealed and unsealed instruments, in force at that time, continue to apply to all instruments afterwards executed, until altered or repealed.

Sec. 2. In civil actions no witness shall be excluded because he is a party to the suit, or interested in the issue to be tried: *Provided*, That in actions by or against executors, administrators, or guardians, in which judgment may be rendered for or against them, neither party shall be allowed to testify against the other as to any transactions with or statements of the testator, intestate, or ward, unless called to testify thereto by the opposite party.: *Provided, further*, That this section may be amended or repealed by the general assembly.

Sec. 3. An election shall be held at the several election precincts of every county in the State, on Tuesday, the thirteenth day of October, 1874, for governor, secretary of state, auditor, treasurer, attorney-general, commissioner of State lands, (for two years, unless the office is sooner abolished by the general assembly,) chancellor and clerk of the separate chancery court of Pulaski County, chief-justice, and two associate justices of the supreme court, a circuit judge and prosecuting attorney for each judicial circuit provided for in this constitution, senators and representatives to the general assembly, all county and township officers provided for in this constitution; and also for the submission of this constitution to the qualified electors of the State, for its adoption or rejection.

Sec. 4. The qualification of voters at the election, to be held as provided in this schedule, shall be the same as is now prescribed by law.

Sec. 5. The State board of supervisors hereinafter mentioned shall give notice of said election immediately after the adoption of this constitution by this convention, by proclamation in at least two newspapers published at Little Rock, and such other newspapers as they may select. And each county board of supervisors shall give public notice, in their respective counties, of said election, immediately after their appointment.

Sec. 6. The Governor shall also issue a proclamation enjoining upon all peace-officers the duty of preserving good order on the day of said election, and preventing any disturbance of the same.

SEC. 7. Augustus H. Garland, Gordon N. Peay, and Dudley E. Jones are hereby constituted a State board of supervisors of said election, who shall take an oath faithfully and impartially to discharge the duties of their office, a majority of whom shall be a quorum, and who shall perform the duties herein assigned them. Should a vacancy occur in said board by refusal to serve, death, removal, resignation or otherwise, or if any member should become incapacitated from performing said duties, the remaining members of the board shall fill the vacancy by appointment. But if all the places on said board become vacant at the same time, the said vacancies shall be filled by the president of this convention.

SEC. 8. Said State board shall at once proceed to appoint a board of election-supervisors for each county of this State, consisting of three men of known intelligence and uprightness of character, who shall take the same oath as above provided for the State board. A majority of each board shall constitute a quorum, and shall perform the duties herein assigned to them; and vacancies occurring in the county boards shall be filled by the State board.

SEC. 9. The State board shall provide the form of poll-books, and each county board shall furnish the judges of each election precinct with three copies of the poll-books in the form prescribed; and with ballot-boxes, at the expense of the county.

SEC. 10. The State board of supervisors shall cause to be furnished in pamphlet form a sufficient number of copies of this constitution to supply each county supervisor and judge of election with a copy, and shall forward the same to the county election boards for distribution.

SEC. 11. The boards of county election supervisors shall at once proceed to appoint three judges of election for each election precinct in their respective counties, and the judges shall appoint three election-clerks for their respective precincts, all of whom shall be good, competent men, and take an oath as prescribed above. Should the judges of any election precinct fail to attend at the time and place provided by law, or decline to act, the assembled electors shall choose competent persons, in the manner provided by law, to act in their place, who shall be sworn as above.

SEC. 12. Said election shall be conducted in accordance with existing laws, except as herein provided. As the electors present themselves at the polls to vote, the judges of the election shall pass upon their qualifications, and the clerks of the election shall register their names on the poll-books if qualified; and such registration by said clerks shall be a sufficient registration in conformity with the Constitution of this State, and then their votes shall be taken.

SEC. 13. Each elector shall have written or printed on his ticket "For constitution," or "Against constitution," and also the offices and the names of the candidates for the offices, for whom he desires to vote.

SEC. 14. The judges shall deposit the tickets in the ballot-box; but no elector shall vote outside of the township or ward in which he resides. The names of the electors shall be numbered, and the corresponding numbers shall be placed on the ballots by the judges when deposited.

SEC. 15. All dram-shops and drinking-houses in this State, shall be closed during the day of said election, and the succeeding night;

and any person selling or giving away intoxicating liquors during said day or night, shall be punished by fine not less than two hundred dollars, for each and every offence, or imprisoned not less than six months, or both.

SEC. 16. The polls shall be opened at eight o'clock in the forenoon, and shall be kept open until sunset. After the polls are closed the ballots shall be counted by the judges at the place of voting, as soon as the polls are closed, unless prevented by violence or accident; and the results by them certified on the poll-books, and the ballots sealed up. They shall be returned to the county board of election supervisors, who shall proceed to cast up the votes and ascertain and state the number of votes cast for the constitution, and the number cast against the constitution, and also the number of votes cast for each candidate voted for, for any office, and shall forthwith forward to the State board of supervisors, duly certified by them, one copy of the statement or abstracts of the votes so made out by them, retain one copy in their possession, and file one copy in the office of the county clerk, where they shall also deposit for safe-keeping the ballots sealed up, and one copy of the poll-books, retaining possession of the other copies.

SEC. 17. The State board of supervisors shall at once proceed, on receiving such returns from the county boards, to ascertain therefrom and state the whole number of votes given for the constitution, and the whole number given against it; and if a majority of all votes cast be in favor of the constitution, they shall at once make public that fact by publication in two or more of the leading newspapers published in the city of Little Rock, and this constitution, from that date shall be in force; and they shall also make out and file in the office of the secretary of state an abstract of all the votes cast for the constitution, and all the votes cast against it; and also an abstract of all votes cast for every candidate voted for at the election, and file the same in the office of the secretary of state, showing the candidates elected. They shall also make out and certify, and lay before each house of the general assembly a list of the members elected to that house; and shall also make out, certify and deliver to the speaker of the house of representatives, an abstract of all votes cast at the election for any and all persons for the office of governor, secretary of state, treasurer of state, auditor of state, attorney-general, and commissioner of State lands, and the said speaker shall cast up the votes, and announce the names of the persons elected to these offices. The governor, secretary of state, treasurer of state, Auditor of state, attorney-general, and commissioner of State lands, chosen at said election, shall qualify and enter upon the discharge of the duties of their respective offices within fifteen days after the announcement of their election as aforesaid.

SEC. 18. All officers shown to be elected by the abstract of said election filed by the State board of supervisors in the office of the secretary of state, required by this Constitution to be commissioned, shall be commissioned by the governor.

SEC. 19. At said election the qualified voters of each county and senatorial district as defined in article eight of this constitution, shall elect respectively representatives and senators according to the numbers and apportionment contained in said article. The board of election supervisors of each county shall furnish certificates of

election to the person or persons elected to the house of representatives as soon as practicable after the result of the election has been ascertained, and such board of election supervisors in each county shall make a correct return of the election for senator or senators to the board of election supervisors of the county first named in the senatorial apportionment, and said board shall furnish certificates of election to the person or persons elected as Senator or Senators in said senatorial district as soon as practicable.

SEC. 20. All officers elected under this Constitution, except the Governor, Secretary of state, auditor of state, treasurer, attorney-general and commissioner of State lands, shall enter upon the duties of their several offices when they shall have been declared duly elected by said State board of supervisors, and shall have duly qualified. All such officers shall qualify and enter upon the duties of their offices within fifteen days after they have been duly notified of their election.

SEC. 21. Upon the qualification of the officers elected at said election, the present incumbents of the offices for which the election is held shall vacate the same, and turn over to the officers thus elected and qualified, all books, papers, records, moneys, and documents belonging or pertaining to said offices by them respectively held.

SEC. 22. The first session of the general assembly under this constitution shall commence on the first Tuesday after the second Monday in November, eighteen hundred and seventy-four.

SEC. 23. The county courts provided for in this constitution shall be regarded in law, as a continuation of the boards of supervisors now existing by law, and the circuit courts shall be regarded in law as continuations of the criminal courts wherever the same may have existed in their respective counties; and the probate courts shall be regarded as continuations of the circuit courts for the business within the jurisdiction of such probate courts, and the papers and records pertaining to said courts and jurisdictions shall be transferred accordingly; and no suit or prosecution of any kind shall abate because of any change made in this constitution.

SEC. 24. All officers now in office, whose offices are not abolished by this convention, shall continue in office and discharge the duties imposed on them by law until their successors are elected and qualified under this constitution. The office of commissioner of State lands shall be continued: *Provided*, That the general assembly at its next session may abolish or continue the same in such manner as may be prescribed by law.

SEC. 25. Any election officer, appointed under the provisions of this schedule, who shall fraudulently and corruptly permit any person to vote illegally, or refuse the vote of any qualified elector, cast up or make a false return of said election, shall be deemed guilty of a felony, and on conviction thereof shall be imprisoned in the penitentiary not less than five years nor more than ten years. And any person who shall vote when not a qualified elector, or vote more than once, or bribe any one to vote contrary to his wishes, or intimidate or prevent any elector by threats, menace, or promises from voting, shall be guilty of a felony, and upon conviction thereof shall be imprisoned in the penitentiary not less than one nor more than five years.

SEC. 26. All officers elected at the election provided for in this schedule shall hold their offices for the respective periods provided

for in the foregoing constitution, and until their successors are elected and qualified. The first general elections after the ratification of this constitution shall be held on the first Monday of September, A. D. 1876. Nothing in this constitution and the schedule thereto shall be so construed as to prevent the election of Congressmen at the time as now prescribed by law.

SEC. 27. The sum of five thousand dollars is hereby appropriated, out of any money in the treasury not otherwise appropriated, to defray the expenses of the election provided for in this schedule, and the auditor of state shall draw his warrants on the treasurer for such expenses, not exceeding said amount, on the certificate of the State board of supervisors of election.

SEC. 28. For the period of two years from the adoption of this constitution, and until otherwise provided by law, the respective officers herein enumerated shall receive for their services the following salaries per annum:

For governor, the sum of $3,500; for secretary of state, the sum of $2,000; for treasurer, the sum of $2,500; for auditor, the sum of $2,500; for attorney-general, the sum of $2,000; for commissioner of State lands, the sum of $2,000; for judges of supreme court, each the sum of $3,500; for judges of circuit and chancery courts, each the sum of $2,500; for prosecuting attorneys, each the sum of $400; for members of the general assembly, the sum of $6 per day, and 20 cents per mile for each mile travelled in going to and returning from the seat of government, over the most direct and practicable route.

G. D. ROYSTON, *President.*

Attest:

THOS. W. NEWTON, *Secretary.*

AMENDMENTS

(Amendment No. 1.)

ARTICLE XX. The general assembly shall have no power to levy any tax, or make any appropriations, to pay either the principal or interest, or any part thereof, of any of the following bonds of the state, or the claims, or pretended claims, upon which they may be based, to-wit: Bonds issued under an act of the general assembly of the State of Arkansas, entitled "An act to provide for the funding of the public debt of the state," approved April 6th, A. D. 1869, and numbered from four hundred and ninety-one to eighteen hundred and sixty, inclusive, being the " funding bonds," delivered to F. W. Caper, and sometimes called " Holford bonds; " or bonds known as railroad aid bonds, issued under an act of the general assembly of the State of Arkansas, entitled "An act to aid in the construction of railroads," approved July 21, A. D. 1868; or bonds called " levee bonds," being bonds issued under an act of the general assembly of the State of Arkansas, entitled "An act providing for the building and repairing the public levees of the state, and for other purposes," approved March 16, A. D. 1869, and the supplemental act thereto, approved April 12, 1869; and the act entitled "An act to amend an act entitled an act providing for the building and repairing of the public levees

of this state," approved March 23, A. D. 1871; and any law providing for any such tax or appropriation, shall be null and void.

Declared to be adopted by the speaker of the house on January 14th, 1885, and after due attestation and filing was so proclaimed by the governor. Vote for the amendment being 119,806; and the vote against the amendment being 15,492.

(Amendment No. 2.)

ARTICLE XXI. Every male citizen of the United States, or male person who has declared his intention of becoming a citizen of the same, of the age of twenty-one years, who has resided in the state twelve months, in the county six months, and in the precinct or ward one month next preceding any election at which he may propose to vote, except such persons as may for the commission of some felony be deprived of the right to vote by law passed by the general assembly, and who shall exhibit a poll tax receipt or other evidence that he has paid his poll tax at the time of collecting taxes next preceding such election, shall be allowed to vote at any election in the State of Arkansas. Provided, that persons who make satisfactory proof that they have attained the age of twenty-one years since the time of assessing taxes next preceding said election and possesses the other necessary qualifications, shall be permitted to vote; and provided further, that the said tax receipt shall be so marked by dated stamp or written endorsement by the judges of election to whom it may be first presented as to prevent the holder thereof from voting more than once at any election.

Declared to be adopted by the speaker of the house on the 12th day of January, 1893; the vote standing for amendment, 75,940; against the amendment, 56,601; and after due attestation and filing was so proclaimed by the governor.

(Amendment No. 3)

ARTICLE XXII. The governor shall, in case a vacancy occurs in any state, district, county or township office in the state, either by death, resignation or otherwise, fill the same by appointment, such appointment to be in force and effect until the next general election thereafter.

Declared to be adopted by the speaker of the house on January 17, 1895, and after attestation and filing was so proclaimed by the governor. Vote for the amendment being 43,446; and the vote against the amendment being 40,207.

(Amendment No. 4)

That Section 10, of Article 17, of the Constitution of the State of Arkansas, be amended so as to read as follows:

"ARTICLE XVII, SECTION 10. The general assembly shall pass laws to correct abuses and prevent unjust discrimination and excessive charges by railroads, canals and turnpike companies for transporting freight and passengers, and shall provide for enforcing such law by adequate penalties and forfeitures, and shall provide for the creation of such offices and commissions and vest in them such authority as shall be necessary to carry into effect the powers hereby conferred."

Declared to be adopted by the speaker of the house on January 13, 1899, and after attestation and filing was so proclaimed by the governor. Vote for the amendment being 63,733; and the vote against the amendment being 16,940.

(Amendment No. 5)

The county courts of the state in their respective counties, together with a majority of the justices of the peace of such county, in addition to the amount of county tax allowed to be levied, shall have the power to levy not exceeding three mills on the dollar on all taxable property of their respective counties, which shall be known as the County Road Tax, and when collected shall be used in the respective counties for the purpose of making and repairing public roads and bridges of the respective counties, and for no other purpose, and shall be collected in United States currency or county warrants legally drawn on such road tax fund, if a majority of the qualified electors of such county shall have voted public road tax at the general election for state and county officers preceding such levy at each election.

Declared to be adopted by the speaker of the house on the 13th day of January, 1899. Vote for the amendment being 57,209; and the vote against the amendment being 24,079.

(Amendment No. 6)

The sureties upon the official bonds of all state officers shall be residents of, and have sufficient property within the state, not exempt from sale under execution, attachment or other process of any court, to make good their bonds, and the sureties upon the official bonds of all county officers shall reside within the counties where such officers reside, and shall have sufficient property therein, not exempt from such sale, to make good their bonds. Provided, however, that any surety, bonding or guaranty company, organized for the purpose of doing a surety or bonding business, and authorized to do business in this state, may become surety on the bonds of all state, county, and municipal officers under such regulations as may be prescribed by law.

Vote for amendment, 65,825. Vote against amendment, 23,033. Proclamation declaring Amendment No. 6 adopted and ratified was issued by Governor Jefferson Davis on February 20, 1902.

(Amendment No. 7)

That Section 16, of Article 5, of the Constitution of the State of Arkansas, be amended so as to read as follows:

"Article V, Section 16. Pay and Mileage. The members of the general assembly shall receive such pay and mileage for their services as shall be fixed by law. No member of either house shall, during the term for which he has been elected, receive any increase of pay for his services under any law passed during such term. The term of all members of the general assembly shall begin on the day of their election."

Election on above amendment held September 1, 1902. For amendment received 45,598 votes. Against amendment received 43,982 votes. Declared adopted by the speaker of the house of representatives on the 14th day of January, 1903.

(Amendment No. 8)

That Section 3, of Article 14, of the Constitution of the State of Arkansas, be amended so as to read as follows:

"Article XIV, Section 3. The general assembly shall provide by general laws for the support of common schools by taxes, which shall

never exceed in any one year three mills on the dollar on the taxable property of the state, and by an annual per capita tax of one dollar, to be assessed on every male inhabitant of this state over the age of twenty-one years. Provided, the general assembly may, by general law, authorize school districts to levy by a vote of the qualified electors of such district a tax not to exceed seven mills on the dollar in any one year for school purposes. Provided further, that no such tax shall be appropriated to any other purpose nor to any other district than that for which it was levied."

Election on above amendment held September 3, 1906. For amendment received 92,969 votes. Against amendment received 47,368 votes.

CALIFORNIA

TREATY OF GUADALUPE HIDALGO—1848 [a]

Concluded February 2, 1848; ratifications exchanged at Queretaro, May 30, 1848; proclaimed July 4, 1848.

In the name of Almighty God:

The United States of America and the United Mexican States, animated by a sincere desire to put an end to the calamities of the war which unhappily exists between the two Republics, and to establish upon a solid basis relations of peace and friendship, which shall confer reciprocal benefits upon the citizens of both, and assure the concord, harmony, and mutual confidence wherein the two peoples should live, as good neighbours, have for that purpose appointed their respective plenipotentiaries, that is to say:

The President of the United States has appointed Nicholas P. Trist, a citizen of the United States, and the President of the Mexican Republic has appointed Don Luis Gonzaga Cuevas, Don Bernardo Couto, and Don Miguel Atristain, citizens of the said Republic;

Who, after a reciprocal communication of their respective full powers, have, under the protection of Almighty God, the author of peace, arranged, agreed upon, and signed the following

Treaty of Peace, Friendship, Limits, and Settlement between the United States of America and the Mexican Republic

Article I

There shall be firm and universal peace between the United States of America and the Mexican Republic, and between their respective countries, territories, cities, towns, and people, without exception of places or persons.

Article II

Immediately upon the signature of this treaty, a convention shall be entered into between a commissioner or commissioners appointed by the General-in-chief of the forces of the United States, and such as may be appointed by the Mexican Government, to the end that a provisional suspension of hostilities shall take place, and that, in

---

[a] California was first discovered by the Spaniards, in 1542, and they began to establish missions there in 1769. After the Mexican revolution, in 1824, it formed a province of that republic, until 1846, when the inhabitants and emigrants from the United States established an independent government. The treaty of Guadalupe Hidalgo brought it within the limits of the United States, and it was then governed by the commanding officer of the military force stationed there, acting as provisional governor.

the places occupied by the said forces, constitutional order may be re-established, as regards the political, administrative, and judicial branches, so far as this shall be permitted by the circumstances of military occupation.

ARTICLE III

Immediately upon the ratification of the present treaty by the Government of the United States, orders shall be transmitted to the commanders of their land and naval forces, requiring the latter (provided this treaty shall then have been ratified by the Government of the Mexican Republic, and the ratifications exchanged) immediately to desist from blockading any Mexican ports; and requiring the former (under the same condition) to commence, at the earliest moment practicable, withdrawing all troops of the United States then in the interior of the Mexican Republic, to points that shall be selected by common agreement, at a distance from the sea-ports not exceeding thirty leagues; and such evacuation of the interior of the Republic shall be completed with the least possible delay; the Mexican Government hereby binding itself to afford every facility in its power for rendering the same convenient to the troops, on their march and in their new positions, and for promoting a good understanding between them and the inhabitants. In like manner orders shall be despatched to the persons in charge of the custom-houses at all ports occupied by the forces of the United States, requiring them (under the same condition) immediately to deliver possession of the same to the persons authorized by the Mexican Government to receive it, together with all bonds and evidences of debt for duties on importations and on exportations, not yet fallen due. Moreover, a faithful and exact account shall be made out, showing the entire amount of all duties on imports and on exports, collected at such custom-houses, or elsewhere in Mexico, by authority of the United States, from and after the day of ratification of this treaty by the Government of the Mexican Republic; and also an account of the cost of collection; and such entire amount, deducting only the cost of collection, shall be delivered to the Mexican Government, at the city of Mexico, within three months after the exchange of ratifications.

The evacuation of the capital of the Mexican Republic by the troops of the United States, in virtue of the above stipulation, shall be completed in one month after the orders there stipulated for shall have been received by the commander of said troops, or sooner if possible.

ARTICLE IV

Immediately after the exchange of ratifications of the present treaty all castles, forts, territories, places, and possessions, which have been taken or occupied by the forces of the United States during the present war, within the limits of the Mexican Republic, as about to be established by the following article, shall be definitively restored to the said Republic, together with all the artillery, arms, apparatus of war, munitions, and other public property, which were in the said castles and forts when captured, and which shall remain there at the time when this treaty shall be duly ratified by the Government of the Mexican Republic. To this end, immediately upon the signature of

this treaty, orders shall be despatched to the American officers commanding such castles and forts, securing against the removal or destruction of any such artillery, arms, apparatus of war, munitions, or other public property. The city of Mexico, within the inner line of intrenchments surrounding the said city, is comprehended in the above stipulation, as regards the restoration of artillery, apparatus of war, &c.

The final evacuation of the territory of the Mexican Republic, by the forces of the United States, shall be completed in three months from the said exchange of ratifications, or sooner if possible; the Mexican Government hereby engaging, as in the foregoing article, to use all means in its power for facilitating such evacuation, and rendering it convenient to the troops, and for promoting a good understanding between them and the inhabitants.

If, however, the ratification of this treaty by both parties should not take place in time to allow the embarcation of the troops of the United States to be completed before the commencement of the sickly season, at the Mexican ports on the Gulf of Mexico, in such case a friendly arrangement shall be entered into between the General-in-chief of the said troops and the Mexican Government, whereby healthy and otherwise suitable places, at a distance from the ports not exceeding thirty leagues, shall be designated for the residence of such troops as may not yet have embarked, until the return of the healthy season. And the space of time here referred to as comprehending the sickly season shall be understood to extend from the first day of May to the first day of November.

All prisoners of war taken on either side, on land or on sea, shall be restored as soon as practicable after the exchange of ratifications of this treaty. It is also agreed that if any Mexicans should now be held as captives by any savage tribe within the limits of the United States, as about to be established by the following article, the Government of the said United States will exact the release of such captives, and cause them to be restored to their country.

Article V

The boundary-line between the two republics shall commence in the Gulf of Mexico, three leagues from land, opposite the mouth of the Rio Grande, otherwise called the Rio Bravo del Norte, or opposite the mouth of its deepest branch, if it should have more than one branch emptying directly into the sea; from thence up the middle of that river, following the deepest channel, where it has more than one, to the point where it strikes the southern boundary of New Mexico; thence westwardly along the whole southern boundary of New Mexico (which runs north of the town called Paso) to its western termination; thence northward along the western line of New Mexico until it intersects the first branch of the river Gila, (or if it should not intersect any branch of that river, then to the point on the said line nearest to such branch, and thence in a direct line to the same;) thence down the middle of the said branch and of the said river, until it empties into the Rio Colorado; thence across the Rio Colorado, following the division-line between Upper and Lower California, to the Pacific Ocean.

The southern and western limits of New Mexico, mentioned in this article, are those laid down in the map entitled "*Map of the United Mexican States, as organized and defined by various acts of the Congress of said republic, and constructed according to the best authorities. Revised edition. Published at New York in* 1847, *by J. Disturnell;*" of which map a copy is added to this treaty, bearing the signatures and seals of the undersigned Plenipotentiaries. And, in order to preclude all difficulty in tracing upon the ground the limit separating Upper from Lower California, it is agreed that the said limit shall consist of a straight line drawn from the middle of the Rio Gila, where it unites with the Colorado, to a point on the coast of the Pacific Ocean, distant one marine league due south of the southernmost point of the port of San Diego, according to the plan of said port made in the year 1782 by Don Juan Pantoja, second sailing-master of the Spanish fleet, and published at Madrid in the year 1802, in the atlas to the voyage of the schooners Sutil and Mexicana; of which plan a copy is hereunto added, signed, and sealed by the respective Plenipotentiaries.

In order to designate the boundary line with due precision, upon authoritative maps, and to establish upon the ground land-marks which shall show the limits of both republics, as described in the present article, the two Governments shall each appoint a commissioner and a surveyor, who, before the expiration of one year from the date of the exchange of ratifications of this treaty, shall meet at the port of San Diego, and proceed to run and mark the said boundary in its whole course to the mouth of the Rio Bravo del Norte. They shall keep journals and make out plans of their operations: and the result agreed upon by them shall be deemed a part of this treaty, and shall have the same force as if it were inserted therein. The two Governments will amicably agree regarding what may be necessary to these persons, and also as to their respective escorts, should such be necessary.

The boundary-line established by this article shall be religiously respected by each of the two republics, and no change shall ever be made therein, except by the express and free consent of both nations, lawfully given by the General Government of each, in conformity with its own constitution.

Article VI

The vessels and citizens of the United States shall, in all time, have a free and uninterrupted passage by the Gulf of California, and by the river Colorado below its confluence with the Gila, to and from their possessions situated north of the boundary line defined in the preceding article; it being understood that this passage is to be by navigating the Gulf of California and the river Colorado, and not by land, without the express consent of the Mexican Government.

If, by the examinations which may be made, it should be ascertained to be practicable and advantageous to construct a road, canal, or railway, which should in whole or in part run upon the river Gila, or upon its right or its left bank, within the space of one marine league from either margin of the river, the Governments of both republics will form an agreement regarding its construction, in order that it may serve equally for the use and advantage of both countries.

ARTICLE VII

The river Gila, and the part of the Rio Bravo del Norte lying below the southern boundary of New Mexico, being, agreeably to the fifth article, divided in the middle between the two republics, the navigation of the Gila and of the Bravo below said boundary shall be free and common to the vessels and citizens of both countries; and neither shall, without the consent of the other, construct any work that may impede or interrupt, in whole or in part, the exercise of this right; not even for the purpose of favouring new methods of navigation. Nor shall any tax or contribution, under any denomination or title, be levied upon vessels or persons navigating the same, or upon merchandise or effects transported thereon, except in the case of landing upon one of their shores. If, for the purpose of making the said rivers navigable, or for maintaining them in such state, it should be necessary or advantageous to establish any tax or contribution, this shall not be done without the consent of both Governments.

The stipulations contained in the present article shall not impair the territorial rights of either republic within its established limits.

ARTICLE VIII

Mexicans now established in territories previously belonging to Mexico, and which remain for the future within the limits of the United States, as defined by the present treaty, shall be free to continue where they now reside, or to remove at any time to the Mexican Republic, retaining the property which they possess in the said territories, or disposing thereof, and removing the proceeds wherever they please, without their being subjected, on this account, to any contribution, tax, or charge whatever.

Those who shall prefer to remain in the said territories may either retain the title and rights of Mexican citizens, or acquire those of citizens of the United States. But they shall be under the obligation to make their election within one year from the date of the exchange of ratifications of this treaty; and those who shall remain in the said territories after the expiration of that year, without having declared their intention to retain the character of Mexicans, shall be considered to have elected to become citizens of the United States.

In the said territories, property of every kind, now belonging to Mexicans not established there, shall be inviolably respected. The present owners, the heirs of these, and all Mexicans who may hereafter acquire said property by contract, shall enjoy with respect to it guarantees equally ample as if the same belonged to citizens of the United States.

ARTICLE IX

The Mexicans who, in the territories aforesaid, shall not preserve the character of citizens of the Mexican Republic, conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the United States, and be admitted at the proper time (to be judged of by the Congress of the United States) to the enjoyment of all the rights of citizens of the United States, according to the principles of the Constitution; and in the mean time shall be maintained and protected in the free enjoyment of their liberty and property, and secured in the free exercise of their religion without restriction.

ARTICLE X

[Stricken out]

ARTICLE XI

Considering that a great part of the territories, which, by the present treaty, are to be comprehended for the future within the limits of the United States, is now occupied by savage tribes, who will hereafter be under the exclusive control of the Government of the United States, and whose incursions within the territory of Mexico would be prejudicial in the extreme, it is solemnly agreed that all such incursions shall be forcibly restrained by the Government of the United States whensoever this may be necessary; and that when they cannot be prevented, they shall be punished by the said government, and satisfaction for the same shall be exacted—all in the same way, and with equal diligence and energy, as if the same incursions were meditated or committed within its own territory, against its own citizens.

It shall not be lawful, under any pretext whatever, for any inhabitant of the United States to purchase or acquire any Mexican, or any foreigner residing in Mexico, who may have been captured by Indians inhabiting the territory of either of the two republics; nor to purchase or acquire horses, mules, cattle, or property of any kind, stolen within Mexican territory by such Indians.

And in the event of any person or persons, captured within Mexican territory by Indians, being carried into the territory of the United States, the Government of the latter engages and binds itself, in the most solemn manner, so soon as it shall know of such captives being within its territory, and shall be able so to do, through the faithful exercise of its influence and power, to rescue them and return them to their country, or deliver them to the agent or representative of the Mexican Government. The Mexican authorities will, as far as practicable, give to the Government of the United States notice of such captures; and its agents shall pay the expenses incurred in the maintenance and transmission of the rescued captives; who, in the mean time, shall be treated with the utmost hospitality by the American authorities at the place where they may be. But if the Government of the United States, before receiving such notice from Mexico, should obtain intelligence, through any other channel, of the existence of Mexican captives within its territory, it will proceed forthwith to effect their release and delivery to the Mexican agent, as above stipulated.

For the purpose of giving to these stipulations the fullest possible efficacy, thereby affording the security and redress demanded by their true spirit and intent, the Government of the United States will now and hereafter pass, without unnecessary delay, and always vigilantly enforce, such laws as the nature of the subject may require. And, finally, the sacredness of this obligation shall never be lost sight of by the said Government, when providing for the removal of the Indians from any portion of the said territories, or for its being settled by citizens of the United States; but, on the contrary, special care shall then be taken not to place its Indian occupants under the necessity of seeking new homes, by committing those invasions which the United States have solemnly obliged themselves to restrain.

ARTICLE XII

In consideration of the extension acquired by the boundaries of the United States, as defined in the fifth article of the present treaty, the Government of the United States engages to pay to that of the Mexican Republic the sum of fifteen millions of dollars.

Immediately after this treaty shall have been duly ratified by the Government of the Mexican Republic, the sum of three millions of dollars shall be paid to the said government by that of the United States, at the city of Mexico, in the gold or silver coin of Mexico. The remaining twelve millions of dollars shall be paid at the same place, and in the same coin, in annual instalments of three millions of dollars each, together with interest on the same at the rate of six per centum per annum. This interest shall begin to run upon the whole sum of twelve millions from the day of the ratification of the present treaty by the Mexican Government, and the first of the instalments shall be paid at the expiration of one year from the same day. Together with each annual instalment, as it falls due, the whole interest accruing on such instalment from the beginning shall also be paid.

ARTICLE XIII

The United States engage, moreover, to assume and pay to the claimants all the amounts now due them, and those hereafter to become due, by reason of the claims already liquidated and decided against the Mexican Republic, under the conventions between the two republics severally concluded on the eleventh day of April, eighteen hundred and thirty-nine, and on the thirtieth day of January, eighteen hundred and forty-three; so that the Mexican Republic shall be absolutely exempt, for the future, from all expense whatever on account of the said claims.

ARTICLE XIV

The United States do furthermore discharge the Mexican Republic from all claims of citizens of the United States, not heretofore decided against the Mexican Government, which may have arisen previously to the date of the signature of this treaty; which discharge shall be final and perpetual, whether the said claims be rejected or be allowed by the board of commissioners provided for in the following article, and whatever shall be the total amount of those allowed.

ARTICLE XV

The United States, exonerating Mexico from all demands on account of the claims of their citizens mentioned in the preceding article, and considering them entirely and forever cancelled, whatever their amount may be, undertake to make satisfaction for the same, to an amount not exceeding three and one-quarter millions of dollars. To ascertain the validity and amount of those claims, a board of commissioners shall be established by the Government of the United States, whose awards shall be final and conclusive; provided that, in deciding upon the validity of each claim, the board shall be guided and governed by the principles and rules of decision prescribed by the

first and fifth articles of the unratified convention, concluded at the city of Mexico on the twentieth day of November, one thousand eight hundred and forty-three; and in no case shall an award be made in favour of any claim not embraced by these principles and rules.

If, in the opinion of the said board of commissioners or of the claimants, any books, records, or documents, in the possession or power of the Government of the Mexican Republic, shall be deemed necessary to the just decision of any claim, the commissioners, or the claimants through them, shall, within such period as Congress may designate, make an application in writing for the same, addressed to the Mexican Minister for Foreign Affairs, to be transmitted by the Secretary of State of the United States; and the Mexican Government engages, at the earliest possible moment after the receipt of such demand, to cause any of the books, records, or documents so specified, which shall be in their possession or power, (or authenticated copies or extracts of the same,) to be transmitted to the said Secretary of State, who shall immediately deliver them over to the said board of commissioners; provided that no such application shall be made by or at the instance of any claimant, until the facts which it is expected to prove by such books, records, or documents, shall have been stated under oath or affimation.

Article XVI

Each of the contracting parties reserves to itself the entire right to fortify whatever point within its territory it may judge proper so to fortify for its security.

Article XVII

The treaty of amity, commerce, and navigation, concluded at the city of Mexico on the fifth day of April, A. D. 1831, between the United States of America and the United Mexican States, except the additional article, and except so far as the stipulations of the said treaty may be incompatible with any stipulation contained in the present treaty, is hereby revived for the period of eight years from the day of the exchange of ratifications of this treaty, with the same force and virtue as if incorporated therein: it being understood that each of the contracting parties reserves to itself the right, at any time after the said period of eight years shall have expired, to terminate the same by giving one year's notice of such intention to the other party.

Article XVIII

All supplies whatever for troops of the United States in Mexico, arriving at ports in the occupation of such troops previous to the final evacuation thereof, although subsequently to the restoration of the custom-houses at such ports, shall be entirely exempt from duties and charges of any kind; the Government of the United States hereby engaging and pledging its faith to establish, and vigilantly to enforce, all possible guards for securing the revenue of Mexico, by preventing the importation, under cover of this stipulation, of any articles other than such, both in kind and in quantity, as shall really be wanted for the use and consumption of the forces of the United

States during the time they may remain in Mexico. To this end it shall be the duty of all officers and agents of the United States to denounce to the Mexican authorities at the respective ports any attempts at a fraudulent abuse of this stipulation, which they may know of, or may have reason to suspect, and to give to such authorities all the aid in their power with regard thereto; and every such attempt, when duly proved and established by sentence of a competent tribunal, shall be punished by the confiscation of the property so attempted to be fraudulently introduced.

Article XIX

With respect to all merchandise, effects, and property whatsoever, imported into ports of Mexico whilst in the occupation of the forces of the United States, whether by citizens of either republic, or by citizens or subjects of any neutral nation, the following rules shall be observed:

1. All such merchandise, effects, and property, if imported previously to the restoration of the custom-houses to the Mexican authorities, as stipulated for in the third article of this treaty, shall be exempt from confiscation, although the importation of the same be prohibited by the Mexican tariff.

2. The same perfect exemption shall be enjoyed by all such merchandise, effects, and property, imported subsequently to the restoration of the custom-houses, and previously to the sixty days fixed in the following article for the coming into force of the Mexican tariff at such ports respectively; the said merchandise, effects, and property being, however, at the time of their importation, subject to the payment of duties, as provided for in the said following article.

3. All merchandise, effects, and property described in the two rules foregoing shall, during their continuance at the place of importation, and upon their leaving such place for the interior, be exempt from all duty, tax, or impost of every kind, under whatsoever title or denomination. Nor shall they be there subjected to any charge whatsoever upon the sale thereof.

4. All merchandise, effects, and property, described in the first and second rules, which shall have been removed to any place in the interior whilst such place was in the occupation of the forces of the United States, shall, during their continuance therein, be exempt from all tax upon the sale or consumption thereof, and from every kind of impost or contribution, under whatsoever title or denomination.

5. But if any merchandise, effects, or property, described in the first and second rules, shall be removed to any place not occupied at the time by forces of the United States, they shall, upon their introduction into such place, or upon their sale or consumption there, be subject to the same duties which, under the Mexican laws, they would be required to pay in such cases if they had been imported in time of peace, through the maritime custom-houses, and had there paid the duties conformably with the Mexican tariff.

6. The owners of all merchandise, effects, or property, described in the first and second rules, and existing in any port of Mexico, shall

have the right to reship the same, exempt from all tax, impost, or contribution whatever.

With respect to the metals, or other property, exported from any Mexican port whilst in the occupation of the forces of the United States, and previously to the restoration of the custom-house at such port, no person shall be required by the Mexican authorities, whether general or state, to pay any tax, duty, or contribution upon any such exportation, or in any manner to account for the same to the said authorities.

Article XX

Through consideration for the interests of commerce generally, it is agreed, that if less than sixty days should elapse between the date of the signature of this treaty and the restoration of the custom-houses, conformably with the stipulation in the third article, in such case all merchandise, effects, and property whatsoever, arriving at the Mexican ports after the restoration of the said custom-houses, and previously to the expiration of sixty days after the day of the signature of this treaty, shall be admitted to entry; and no other duties shall be levied thereon than the duties established by the tariff found in force at such custom-houses at the time of the restoration of the same. And to all such merchandise, effects, and property, the rules established by the preceding article shall apply.

Article XXI

If unhappily any disagreement should hereafter arise between the Governments of the two republics, whether with respect to the interpretation of any stipulation in this treaty, or with respect to any other particular concerning the political or commercial relations of the two nations, the said Governments, in the name of those nations, do promise to each other that they will endeavor, in the most sincere and earnest manner, to settle the differences so arising, and to preserve the state of peace and friendship in which the two countries are now placing themselves, using, for this end, mutual representations, and pacific negotiations. And if, by these means, they should not be enabled to come to an agreement, a resort shall not, on this account, be had to reprisals, aggression, or hostility of any kind, by the one republic against the other, until the Government of that which deems itself aggrieved shall have maturely considered, in the spirit of peace and good neighborship, whether it would not be better that such difference should be settled by the arbitration of commissioners appointed on each side, or by that of a friendly nation. And should such course be proposed by either party, it shall be acceded to by the other, unless deemed by it altogether incompatible with the nature of the difference, or the circumstances of the case.

Article XXII

If (which is not to be expected, and which God forbid) war should unhappily break out between the two republics, they do now, with a view of such calamity, solemnly pledge themselves to each other and to the world to observe the following rules, absolutely

where the nature of the subject permits, and as closely as possible in all cases where such absolute observance shall be impossible:

1. The merchants of either republic then residing in the other shall be allowed to remain twelve months, (for those dwelling in the interior,) and six months, (for those dwelling at the sea-ports,) to collect their debts and settle their affairs; during which periods they shall enjoy the same protection, and be on the same footing, in all respects, as the citizens or subjects of the most friendly nations; and, at the expiration thereof, or at any time before, they shall have full liberty to depart, carrying off all their effects without molestation or hindrance, conforming therein to the same laws which the citizens or subjects of the most friendly nations are required to conform to. Upon the entrance of the armies of either nation into the territories of the other, women and children, ecclesiastics, scholars of every faculty, cultivators of the earth, merchants, artisans, manufacturers, and fishermen, unarmed and inhabiting unfortified towns, villages, or places, and in general all persons whose occupations are for the common subsistence and benefit of mankind, shall be allowed to continue their respective employments, unmolested in their persons. Nor shall their houses or goods be burnt or otherwise destroyed, nor their cattle taken, nor their fields wasted, by the armed force into whose power, by the events of war, they may happen to fall; but if the necessity arise to take anything from them for the use of such armed force, the same shall be paid for at an equitable price. All churches, hospitals, schools, colleges, libraries, and other establishments for charitable and beneficent purposes, shall be respected, and all persons connected with the same protected in the discharge of their duties, and the pursuit of their vocations.

2. In order that the fate of prisoners of war may be alleviated, all such practices as those of sending them into distant, inclement, or unwholesome districts, or crowding them into close and noxious places, shall be studiously avoided. They shall not be confined in dungeons, prison-ships, or prisons; nor be put in irons, or bound, or otherwise restrained in the use of their limbs. The officers shall enjoy liberty on their paroles, within convenient districts, and have comfortable quarters; and the common soldier shall be disposed in cantonments, open and extensive enough for air and exercise, and lodged in barracks as roomy and good as are provided by the party in whose power they are for its own troops. But if any officer shall break his parole by leaving the district so assigned him, or any other prisoner shall escape from the limits of his cantonment, after they shall have been designated to him, such individual, officer, or other prisoner, shall forfeit so much of the benefit of this article as provides for his liberty on parole or in cantonment. And if any officer so breaking his parole, or any common soldier so escaping from the limits assigned him, shall afterwards be found in arms, previously to his being regularly exchanged, the person so offending shall be dealt with according to the established laws of war. The officers shall be daily furnished by the party in whose power they are with as many rations, and of the same articles as are allowed, either in kind or by commutation, to officers of equal rank in its own army; and all others shall be daily furnished with such ration as is allowed to a common soldier in its own service; the value of all which supplies shall, at the close of the war, or at periods to be agreed upon

between the respective commanders, be paid by the other party, on a mutual adjustment of accounts for the subsistence of prisoners; and such accounts shall not be mingled with or set off against any others, nor the balance due on them be withheld, as a compensation or reprisal for any cause whatever, real or pretended. Each party shall be allowed to keep a commissary of prisoners, appointed by itself, with every cantonment of prisoners, in possession of the other; which commissary shall see the prisoners as often as he pleases; shall be allowed to receive, exempt from all duties or taxes, and to distribute, whatever comforts may be sent to them by their friends; and shall be free to transmit his reports in open letters to the party by whom he is employed.

And it is declared that neither the pretence that war dissolves all treaties, nor any other whatever, shall be considered as annulling or suspending the solemn covenant contained in this article. On the contrary, the state of war is precisely that for which it is provided; and, during which, its stipulations are to be as sacredly observed as the most acknowledged obligations under the law of nature or nations.

Article XXIII

This treaty shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof; and by the President of the Mexican Republic, with the previous approbation of its general Congress; and the ratifications shall be exchanged in the city of Washington, or at the seat of Government of Mexico, in four months from the date of the signature hereof, or sooner if practicable.

In faith whereof we, the respective Plenipotentiaries, have signed this treaty of peace, friendship, limits, and settlement, and have hereunto affixed our seals respectively. Done in quintuplicate, at the city of Guadalupe Hidalgo, on the second day of February, in the year of our Lord one thousand eight hundred and forty-eight.

N. P. Trist. [L. S.]
Luis G. Cuevas. [L. S.]
Bernardo Couto. [L. S.]
Migl. Atristain. [L. S.]

Protocol

In the city of Queretaro, on the twenty-sixth of the month of May, eighteen hundred and forty-eight, at a conference between their excellencies Nathan Clifford and Ambrose H. Sevier, Commissioners of the U. S. of A., with full powers from their Government to make to the Mexican Republic suitable explanations in regard to the amendments which the Senate and Government of the said United States have made in the treaty of peace, friendship, limits, and definitive settlement between the two Republics, signed in Quadalupe Hidalgo, on the second day of February of the present year; and His Excellency Don Luis de la Rosa, Minister of Foreign Affairs of the Republic of Mexico; it was agreed, after adequate conversation, respect-

ing the changes alluded to, to record in the present protocol the following explanations, which their aforesaid excellencies the Commissioners gave in the name of their Government and in fulfillment of the commission conferred upon them near the Mexican Republic:

1st. The American Government by suppressing the IXth article of the treaty of Guadalupe Hidalgo and substituting the IIId article of the treaty of Louisiana, did not intend to diminish in any way what was agreed upon by the aforesaid article IXth in favor of the inhabitants of the territories ceded by Mexico. Its understanding is that all of that agreement is contained in the 3d article of the treaty of Louisiana. In consequence all the privileges and guarantees, civil, political, and religious, which would have been possessed by the inhabitants of the ceded territories, if the IXth article of the treaty had been retained, will be enjoyed by them, without any difference, under the article which has been substituted.

2d. The American Government by suppressing the Xth article of the treaty of Guadalupe did not in any way intend to annul the grants of lands made by Mexico in the ceded territories. These grants, notwithstanding the suppression of the article of the treaty, preserve the legal value which they may possess, and the grantees may cause their legitimate [titles] to be acknowledged before the American tribunals.

Conformably to the law of the United States, legitimate titles to every description of property, personal and real, existing in the ceded territories are those which were legitimate titles under the Mexican law in California and New Mexico up to the 13th of May, 1846, and in Texas up to the 2d March, 1836.

3d. The Government of the United States, by suppressing the concluding paragraph of article XIIth of the treaty, did not intend to deprive the Mexican Republic of the free and unrestrained faculty of ceding, conveying, or transferring at any time (as it may judge best) the sum of twelve millions of dollars which the same Government of the U. States is to deliver in the places designated by the amended article.

And these explanations having been accepted by the Minister of Foreign Affairs of the Mexican Republic, he declared, in name of his Government, that with the understanding conveyed by them the same Government would proceed to ratify the treaty of Guadalupe, as modified by the Senate and Government of the U. States. In testimony of which, their Excellencies, the aforesaid Commissioners and the Minister, have signed and sealed, in quintuplicate, the present protocol.

A. H. Sevier. [seal.]
Nathan Clifford. [seal.]
Luis de la Rosa. [seal.]

ACT FOR ADMISSION OF CALIFORNIA—1850 [a]

[THIRTY-FIRST CONGRESS, FIRST SESSION]

An Act for the admission of the State of California into the Union.

Whereas the people of California have presented a constitution and asked admission into the Union, which constitution was submitted to Congress by the President of the United States, by message dated February thirteenth, eighteen hundred and fifty, and which, on due examination, is found to be republican in its form of government:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of California shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States in all respects whatever.

SEC. 2. *And be it further enacted*, That, until the Representatives in Congress shall be apportioned according to an actual enumeration of the inhabitants of the United States, the State of California shall be entitled to two Representatives in Congress.

SEC. 3. *And be it further enacted*, That the said State of California is admitted into the Union upon the express condition that the people of said State, through their legislature or otherwise, shall never interfere with the primary disposal of the public lands within its limits, and shall pass no law and do no act whereby the title of the United States, to, and right to dispose of, the same shall be impaired or questioned; and that they shall never lay any tax or assessment of any description whatsoever upon the public domain of the United States, and in no case shall non-resident proprietors, who are citizens of the United States, be taxed higher than residents; and that all the navigable waters within the said State shall be common highways, and forever free, as well to the inhabitants of said State as to the citizens of the United States, without any tax, impost, or duty therefor: *Provided*, That nothing herein contained shall be construed as recognizing or rejecting the propositions tendered by the people of California as articles of compact in the ordinance adopted by the convention which formed the constitution of that State.

Approved, September 9, 1850.

---

[a] An act of March 3, 1849, extended the revenue laws to California and erected a collection district therein. Congress having failed to pass a bill establishing a territorial government in California, which was presented in 1849, and two bills establishing a State government there, which were presented in 1849 and in 1850, passed this act for the admission of California as one of the United States, which was approved September 9, 1850. A subsequent act of Congress, approved September 28, 1850, provided, "That all the laws of the United States which are not locally inapplicable shall have the same force and effect within the said State of California as elsewhere within the United States."

CONSTITUTION OF CALIFORNIA—1849*[a]

We, the people of California, grateful to Almighty God for our freedom in order to secure its blessings, do establish this Constitution.

ARTICLE I

DECLARATION OF RIGHTS

SECTION 1. All men are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety and happiness.

SEC. 2. All political power is inherent to the people. Government is instituted for the protection, security, and benefit of the people; and they have the right to alter or reform the same whenever the public good may require it.

SEC. 3. The right of trial by jury shall be secured to all, and remain inviolate forever; but jury trial may be waived by the parties in all civil cases, in the manner to be prescribed by law.

SEC. 4. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this State; and no person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

SEC. 5. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in case of rebellion or invasion, the public safety may require its suspension.

SEC. 6. Excessive bail shall not be required, nor excessive fines imposed, nor shall cruel or unusual punishments be inflicted, nor shall witnesses be unreasonably detained.

SEC. 7. All persons shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident or the presumption great.

SEC. 8. No person shall be held to answer for a capital or otherwise infamous crime, (except in cases of impeachment, and in cases of militia when in actual service, and the land and naval forces in time of war, or which this State may keep with the consent of Congress in time of peace, and in cases of petit larceny under the regulation of the legislature,) unless on presentment or indictment of a grand jury; and in any trial in any court whatever the party accused shall be allowed to appear and defend in person and with counsel, as in civil

---

* Verified from "The Debates in the Convention of California on the Formation of the State Constitution in September and October, 1849." Reported by J. Ross Browne, Washington. Printed by John T. Towers, 1850. Appendix, pp. III–XL. Also by the Laws of California, 1849–1879. Also by the text printed in Vol. I, pp. 5–11, of "The Debates and Proceedings of the California State Constitutional Convention of 1878–9."

[a] This convention was framed by a convention called by General Riley, U. S. A., as provisional governor, which met at Monterey September 1, 1849, and adjourned October 13, 1849. The constitution submitted by them to the people was ratified November 13, 1849, receiving 12,061 votes against 811 votes.

actions. No person shall be subject to be twice put in jeopardy for the same offence; nor shall he be compelled, in any criminal case, to be a witness against himself, nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation.

SEC. 9. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions on indictments for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libellous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

SEC. 10. The people shall have the right freely to assemble together to consult for the common good, to instruct their representatives, and to petition the legislature for redress of grievances.

SEC. 11. All laws of a general nature shall have a uniform operation.

SEC. 12. The military shall be subordinate to the civil power. No standing army shall be kept up by this State in time of peace; and in time of war no appropriation for a standing army shall be for a longer time than two years.

SEC. 13. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor in time of war, except in the manner to be prescribed by law.

SEC. 14. Representation shall be apportioned according to population.

SEC. 15. No person shall be imprisoned for debt, in any civil action on mesne or final process, unless in cases of fraud; and no person shall be imprisoned for a militia fine in time of peace.

SEC. 16. No bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, shall ever be passed.

SEC. 17. Foreigners who are, or who may hereafter become *bona-fide* residents of this State, shall enjoy the same rights in respect to the possession, enjoyment, and inheritance of property, as native-born citizens.

SEC. 18. Neither slavery, nor involuntary servitude, unless for the punishment of crimes, shall ever be tolerated in this State.

SEC. 19. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable seizures and searches, shall not be violated; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the persons and things to be seized.

SEC. 20. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason, unless on the evidence of two witnesses to the same overt act, or confession in open court.

SEC. 21. This enumeration of rights shall not be construed to impair or deny others retained by the people.

Article II

RIGHT OF SUFFRAGE

Section 1. Every white male citizen of the United States, and every white male citizen of Mexico, who shall have elected to become a citizen of the United States, under the treaty of peace exchanged and ratified at Queretaro, on the 30th day of May, 1848, of the age of twenty-one years, who shall have been a resident of the State six months next preceding the election, and the county or district in which he claims his vote thirty days, shall be entitled to vote at all elections which are now or hereafter may be authorized by law: *Provided*, That nothing herein contained, shall be construed to prevent the Legislature, by a two-thirds concurrent vote, from admitting to the right of suffrage, Indians or the descendants of Indians, in such special cases as such a proportion of the legislative body may deem just and proper.

Sec. 2. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest on the days of the election, during their attendance at such election, going to and returning therefrom.

Sec. 3. No elector shall be obliged to perform militia duty on the day of election, except in time of war or public danger.

Sec. 4. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this State, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse, or other asylum, at public expense; nor while confined in any public prison.

Sec. 5. No idiot or insane person, or person convicted of any infamous crime, shall be entitled to the privileges of an elector.

Sec. 6. All elections by the people shall be by ballot.

Article III

DISTRIBUTION OF POWERS

The powers of the government of the State of California shall be divided into three separate departments—the legislative, the executive, and judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any functions appertaining to either of the others, except in the cases hereinafter expressly directed or permitted.

Article IV

LEGISLATIVE DEPARTMENT

Section 1. The legislative power of this State shall be vested in a senate and assembly, which shall be designated "The legislature of the State of California," and the enacting clause of every law shall be as follows: "The people of the State of California, represented in senate and assembly, do enact as follows."

SEC. 2. The sessions of the legislature shall be annual, and shall commence on the first Monday of January next ensuing the election of its members, unless the governor of the State shall in the interim convene the legislature by proclamation.

SEC. 3. The members of the assembly shall be chosen annually, by the qualified voters of their respective districts, on the Tuesday next after the first Monday in November, unless otherwise ordered by the Legislature, and their term of office shall be one year.

SEC. 4. Senators and members of the assembly shall be duly-qualified electors in the respective counties and districts which they represent.

SEC. 5. Senators shall be chosen for the term of two years, at the same time and places as members of assembly; and no person shall be a member of the senate or assembly who has not been a citizen and inhabitant of the State one year, and of the county or district for which he shall be chosen six months next before his election.

SEC. 6. The number of senators shall not be less than one-third nor more than one-half of that of the members of assembly; and at the first sesstion of the legislature after this constitution takes effect, the senators shall be divided by lot, as equally as may be, into two classes; the seats of the senators of the first class shall be vacated at the expiration of the first year, so that one-half shall be chosen annually.

SEC. 7. When the number of senators is increased, they shall be apportioned by lot, so as to keep the two classes as nearly equal in number as possible.

SEC. 8. Each house shall choose its own officers, and judge of the qualifications, elections, and returns of its own members.

SEC. 9. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner and under such penalties as each house may provide.

SEC. 10. Each house shall determine the rules of its own proceedings, and may, with the concurrence of two-thirds of all the members elected, expel a member.

SEC. 11. Each house shall keep a journal of its own proceedings, and publish the same; and the yeas and nays of the members of either house on any question shall, at the desire of any three members present, be entered on the journal.

SEC. 12. Members of the legislature shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest; and they shall not be subject to any civil process during the session of the legislature, nor for fifteen days next before the commencement and after the termination of each session.

SEC. 13. When vacancies occur in either house, the governor, or the person exercising the functions of the governor, shall issue writs of election to fill such vacancies.

SEC. 14. The doors of each house shall be open, except on such occasions as in the opinion of the house may require secrecy.

SEC. 15. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

SEC. 16. Any bill may originate in either house of the legislature, and all bills passed by one house may be amended in the other.

Sec. 17. Every bill which may have passed the legislature shall, before it becomes a law, be presented to the governor. If he approve it, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, which shall enter the same upon the journal, and proceed to reconsider it. If, after such reconsideration, it again pass both houses, by yeas and nays, by a majority of two-thirds of the members of each house present, it shall become a law, notwithstanding the governor's objections. If any bill shall not be returned within ten days after it shall have been presented to him, (Sundays excepted,) the same shall be a law, in like manner as if he had signed it, unless the legislature, by adjournment, prevent such return.

Sec. 18. The assembly shall have the sole power of impeachment; and all impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be upon oath or affirmation; and no person shall be convicted, without the concurrence of two-thirds of the members present.

Sec. 19. The governor, lieutenant-governor, secretary of state, comptroller, treasurer, attorney-general, surveyor-general, justices of the supreme court and judges of the district courts, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall extend only to removal from office, and disqualification to hold any office of honor, trust or profit, under the State; but the party convicted, or acquitted, shall nevertheless, be liable to indictment, trial, and punishment, according to law. All other civil officers shall be tried, for misdemeanor in office, in such manner as the legislature may provide.

Sec. 20. No senator, or member of assembly, shall, during the term for which he shall have been elected, be appointed to any civil office of profit, under this State, which shall have been created, or the emoluments of which shall have been increased, during such term, except such office as may be filled by elections by the people.

Sec. 21. No person holding any lucrative office under the United States, or any other power, shall be eligible to any civil office of profit, under this State: *Provided*, That officers in the militia, to which there is attached no annual salary, or local officers and postmasters whose compensation does not exceed five hundred dollars per annum, shall not be deemed lucrative.

Sec. 22. No person who shall be convicted of the embezzlement, or defalcation of the public funds of this State, shall ever be eligible to any office of honor, trust, or profit under this State; and the legislature shall, as soon as practicable, pass a law providing for the punishment of such embezzlement, or defalcation, as a felony.

Sec. 23. No money shall be drawn from the treasury but in consequence of appropriations made by law. An accurate statement of the receipts and expenditures of the public moneys, shall be attached to and published with the laws at every regular session of the legislature.

Sec. 24. The members of the legislature shall receive for their services, a compensation to be fixed by law, and paid out of the public treasury; but no increase of the compensation shall take effect during the term for which the members of either house shall have been elected.

Sec. 25. Every law enacted by the legislature shall embrace but one object, and that shall be expressed in the title; and no law shall be revised, or amended, by reference to its title; but, in such case, the act revised, or section amended shall be reenacted and published at length.

Sec. 26. No divorce shall be granted by the legislature.

Sec. 27. No lottery shall be authorized by this State, nor shall the sale of lottery-tickets be allowed.

Sec. 28. The enumeration of the inhabitants of this State shall be taken, under the direction of the legislature, in the year one thousand eight hundred and fifty-two, and one thousand eight hundred and fifty-five, and at the end of every ten years thereafter; and these enumerations, together with the census that may be taken, under the direction of the Congress of the United States, in the year one thousand eight hundred and fifty, and every subsequent ten years, shall serve as the basis of representation in both houses of the legislature.

Sec. 29. The number of senators and members of assembly, shall, at the first session of the legislature holden after the enumerations herein provided for are made, be fixed by the legislature, and apportioned among the several counties and districts to be established by law, according to the number of white inhabitants. The number of members of assembly shall not be less than twenty-four, nor more than thirty-six, until the number of inhabitants within this State shall amount to one hundred thousand; and after that period, at such ratio that the whole number of members of assembly shall never be less than thirty nor more than eighty.

Sec. 30. When a congressional, senatorial, or assembly district shall be composed of two or more counties, it shall not be separated by any county belonging to another district; and no county shall be divided in forming a congressional, senatorial, or assembly district.

Sec. 31. Corporations may be formed under general laws, but shall not be created by special act except for municipal purposes. All general laws and special acts passed pursuant to this section may be altered from time to time, or repealed.

Sec. 32. Dues from corporations shall be secured by such individual liability of the corporators and other means as may be prescribed by law.

Sec. 33. The term corporations as used in this article shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships. And all corporations shall have the right to sue, and shall be subject to be sued, in all courts in like cases as natural persons.

Sec. 34. The legislature shall have no power to pass any act granting any charter for banking purposes; but associations may be formed under general laws for the deposit of gold and silver, but no such association shall make, issue, or put in circulation any bill, check, ticket, certificate, promissory-note, or other paper, or the paper of any bank, to circulate as money.

Sec. 35. The legislature of this State shall prohibit by law any person or persons, association, company, or corporation from exercising the privileges of banking or creating paper to circulate as money.

SEC. 36. Each stockholder of a corporation or joint-stock association shall be individually and personally liable for his proportion of all its debts and liabilities.

SEC. 37. It shall be the duty of the legislature to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments and in contracting debts by such municipal corporations.

SEC. 38. In all elections by the legislature, the members thereof shall vote *viva voce*, and the votes shall be entered on the journal.

ARTICLE V

EXECUTIVE DEPARTMENT

SECTION 1. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled the governor of the State of California.

SEC. 2. The governor shall be elected by the qualified electors, at the time and places of voting for members of assembly, and shall hold his office two years from the time of his installation, and until his successor shall be qualified.

SEC. 3. No person shall be eligible to the office of governor (except at the first election) who has not been a citizen of the United States, and a resident of this State two years next preceding the election, and attained the age of twenty-five years at the time of said election.

SEC. 4. The returns of every election for governor shall be sealed up and transmitted to the seat of government, directed to the speaker of the assembly, who shall, during the first week of the session, open and publish them in presence of both houses of the legislature. The person having the highest number of votes shall be governor; but in case any two or more have an equal and the highest number of votes, the legislature shall, by a joint vote of both houses, choose one of said persons, so having an equal and the highest number of votes, for governor.

SEC. 5. The governor shall be commander-in-chief of the militia, the army, and navy of this State.

SEC. 6. He shall transact all executive business with the officers of Government, civil and military, and may require information in writing from the officers of the executive department, upon any subject relating to the duties of their respective offices.

SEC. 7. He shall see that the laws are faithfully executed.

SEC. 8. When any office shall, from any cause become vacant, and no mode is provided by the constitution and laws for filling such vacancy, the governor shall have power to fill such vacancy by granting a commission, which shall expire at the end of the next session of the legislature, or at the next election by the people.

SEC. 9. He may, on extraordinary occasions, convene the legislature by proclamation, and shall state to both houses, when assembled, the purpose for which they shall have been convened.

SEC. 10. He shall communicate by message to the Legislature, at every session, the condition of the State, and recommend such matters as he shall deem expedient.

Sec. 11. In case of a disagreement between the two houses, with respect to the time of adjournment, the Governor shall have power to adjourn the Legislature to such time as he may think proper; provided, it be not beyond the time fixed for the meeting of the next Legislature.

Sec. 12. No person shall, while holding any office under the United States, or this State, exercise the office of Governor, except as hereinafter expressly provided.

Sec. 13. The Governor shall have the power to grant reprieves and pardons after conviction, for all offences except treason and cases of impeachment, upon such conditions, and with such restrictions and limitations, as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason he shall have the power to suspend the execution of the sentence until the case shall be reported to the Legislature at its next meeting, when the Legislature shall either pardon, direct the execution of the sentence, or grant a further reprieve. He shall communicate to the Legislature, at the beginning of every session, every case of reprieve or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence, at its date, and the date of the pardon or reprieve.

Sec. 14. There shall be a seal of this State, which shall be kept by the Governor, and used by him officially, and shall be called "The Great Seal of the State of California."

Sec. 15. All grants and commissions shall be in the name and by the authority of the people of the State of California, sealed with the great seal of the State, signed by the Governor, and countersigned by the Secretary of State.

Sec. 16. A Lieutenant-Governor shall be elected at the same time and places and in the same manner as the Governor; and his term of office, and his qualifications of eligibility shall also be the same. He shall be President of the Senate, but shall only have a casting vote therein. If, during a vacancy of the office of Governor, the Lieutenant-Governor shall be impeached, displaced, resign, die or become incapable of performing the duties of his office, or be absent from the State, the President of the Senate shall act as Governor, until the vacancy be filled, or the disability shall cease.

Sec. 17. In case of the impeachment of the Governor, or his removal from office, death, inability to discharge the powers and the duties of the said office, resignation, or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant-Governor for the residue of the term, or until the disability shall cease. But when the Governor shall, with the consent of the Legislature, be out of the State in time of war, and at the head of any military force thereof, he shall continue commander-in-chief of the military force of the State.

Sec. 18. A secretary of State, a Comptroller, a Treasurer, an Attorney-General, and Surveyor-General, shall be chosen in the manner provided in this Constitution; and the term of office, and eligibility of each shall be the same as are prescribed for the Governor and Lieutenant-Governor.

Sec. 19. The secretary of State shall be appointed by the Governor, by and with the advice and consent of the Senate. He shall keep a

fair record of the official acts of the Legislative and executive departments of the Government, and shall, when required, lay the same, and all matters relative thereto, before either branch of the legislature, and shall perform such other duties as shall be assigned him by law.

SEC. 20. The comptroller, treasurer, attorney-general, and surveyor-general shall be chosen by joint vote of the two houses of the legislature, at their first session under this constitution, and thereafter shall be elected at the same time and places and in the same manner as the governor and lieutenant-governor.

SEC. 21. The governor, lieutenant-governor, secretary of state, comptroller, treasurer, attorney-general, and surveyor-general shall each at stated times during their continuance in office receive for their services a compensation, which shall not be increased or diminished during the term for which they shall have been elected; but neither of these officers shall receive for his own use any fees for the performance of his official duties.

ARTICLE VI

JUDICIAL DEPARTMENT

SECTION 1. The judicial power of this State shall be vested in a supreme court, in district courts, in county courts, and in justices of the peace. The legislature may also establish such municipal and other inferior courts as may be deemed necessary.

SEC. 2. The supreme court shall consist of a chief-justice and two associate justices, any two of whom shall constitute a quorum.

SEC. 3. The justices of the supreme court shall be elected at the general election by the qualified electors of the State, and shall hold their office for the term of six years from the 1st day of January next after their election: *Provided*, That the legislature shall, at its first meeting, elect a chief-justice and two associate justices of the supreme court, by a joint vote of both houses, and so classify them that one shall go out of office every two years. After the first election the senior justice in commission shall be the chief-justice.

SEC. 4. The supreme court shall have appellate jurisdiction in all cases when the matter in dispute exceeds two hundred dollars, when the legality of any tax, toll, or impost, or municipal fine is in question, and in all criminal cases amounting to felony or questions of law alone. And the said court, and each of the justices thereof, as well as all district and county judges, shall have power to issue writs of *habeas corpus* at the instance of any person held in actual custody. They shall also have power to issue all other writs and process necessary to the exercise of their appellate jurisdiction, and shall be conservators of the peace throughout the State.

SEC. 5. The State shall be divided by the first legislature into a convenient number of districts, subject to such alteration from time to time as the public good may require, for each of which a district judge shall be appointed by the joint vote of the legislature, at its 1st meeting, who shall hold his office for two years from the 1st day of January next after his election; after which said judges shall be

elected by the qualified electors of their respective districts, at the general election, and shall hold their office for the term of six years.

SEC. 6. The district courts shall have original jurisdiction in law and equity in all civil cases where the amount in dispute exceeds two hundred dollars, exclusive of interest. In all criminal cases not otherwise provided for, and in all issues of fact joined in the probate courts, their jurisdiction shall be unlimited.

SEC. 7. The legislature shall provide for the election by the people of a clerk of the supreme court, and county clerks, district attorneys, sheriffs, coroners, and other necessary officers; and shall fix by law their duties and compensation. County clerks shall be *ex-officio* clerks of the district courts in and for their respective counties.

SEC. 8. There shall be elected in each of the organized counties of this State one county judge, who shall hold his office for four years. He shall hold the county court, and perform the duties of surrogate or probate judge. The county judge, with two justices of the peace, to be designated according to law, shall hold courts of sessions, with such criminal jurisdiction as the legislature shall prescribe, and he shall perform such other duties as shall be required by law.

SEC. 9. The county courts shall have such jurisdiction in cases arising in justices' courts, and in special cases, as the legislature may prescribe, but shall have no original civil jurisdiction, except in such special cases.

SEC. 10. The times and places of holding the terms of the supreme court, and the general and special terms of the district courts within the several districts, shall be provided for by law.

SEC. 11. No judicial officer, except a justice of the peace, shall receive, to his own use, any fees or perquisites of office.

SEC. 12. The legislature shall provide for the speedy publication of all statute laws, and of such judicial decisions as it may deem expedient; and all laws and judicial decisions shall be free for publication by any person.

SEC. 13. Tribunals for conciliation may be established, with such powers and duties as may be prescribed by law; but such tribunals shall have no power to render judgment to be obligatory on the parties, except they voluntarily submit their matters in difference, and agree to abide the judgment, or assent thereto in the presence of such tribunal, in such cases as shall be prescribed by law.

SEC. 14. The legislature shall determine the number of justices of the peace, to be elected in each county, city, town, and incorporated village of the State, and fix by law their powers, duties, and responsibilities. It shall also determine in what cases appeals may be made from justices' courts to the county court.

SEC. 15. The justices of the supreme court, and judges of the district court, shall severally, at stated times during their continuance in office, receive for their services a compensation, to be paid out of the treasury, which shall not be increased or diminished during the term for which they shall have been elected. The county judges shall also severally, at stated times, receive for their services a compensation to be paid out of the county treasury of their respective counties, which shall not be increased or diminished during the term for which they shall have been elected.

Sec. 16. The justices of the supreme court and district judges shall be ineligible to any other office, during the term for which they shall have been elected.

Sec. 17. Judges shall not charge juries with respect to matters of fact, but may state the testimony and declare the law.

Sec. 18. The style of all process shall be, "The People of the State of California;" all the prosecutions shall be conducted in the name and by the authority of the same.

Article VII

MILITIA

Section 1. The legislature shall provide by law for organizing and disciplining the militia, in such manner as they shall deem expedient, not incompatible with the Constitution and laws of the United States.

Sec. 2. Officers of the militia shall be elected, or appointed, in such a manner as the legislature shall from time to time direct, and shall be commissioned by the governor.

Sec. 3. The governor shall have power to call forth the militia, to execute the laws of the State, to suppress insurrections, and repel invasions.

Article VIII

STATE DEBTS

The legislature shall not in any manner create any debt or debts, lability or liabilities, which shall singly, or in the aggregate, with any previous debts or liabilities, exceed the sum of three hundred thousand dollars, except in case of war, to repel invasion or suppress insurrection, unless the same shall be authorized by some law for some single object or work, to be distinctly specified therein, which law shall provide ways and means, exclusive of loans, for the payment of the interest of such debt or liability, as it falls due, and also pay and discharge the principal of such debt or liability within twenty years from the time of the contracting thereof, and shall be irrepealable until the principal and interest thereon shall be paid and discharged; but no such law shall take effect until, at a general election, it shall have been submitted to the people, and have received a majority of all the votes cast for and against it at such election; and all money raised by authority of such law shall be applied only to the specific object therein stated, or to the payment of the debt thereby created; and such law shall be published in at least one newspaper in each judicial district, if one be published therein, throughout the State, for three months next preceding the election at which it is submitted to the people.

Article IX

EDUCATION

Section 1. The legislature shall provide for the election, by the people, of a superintendent of public instruction, who shall hold his office for three years, and whose duties shall be prescribed by law, and who shall receive such compensation as the legislature may direct.

Sec. 2. The legislature shall encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement. The proceeds of all land that may be granted by the United States to this State for the support of schools, which may be sold or disposed of, and the five hundred thousand acres of land granted to the new States, under an act of Congress, distributing the proceeds of the public lands among the several States of the Union, approved A. D. 1841, and all estate of deceased persons who may have died without leaving a will, or heir, and also such per cent. as may be granted by Congress on the sale of lands in this State, shall be and remain a perpetual fund, the interest of which, together with all the rents of the unsold lands, and such other means as the legislature may provide, shall be inviolably appropriated to the support of common schools throughout the State.

Sec. 3. The legislature shall provide for a system of common schools, by which a school shall be kept up and supported in each district at least three months in every year, and any district neglecting to keep and support such a school may be deprived of its proportion of the interest of the public fund during such neglect.

Sec. 4. The legislature shall take measures for the protection, improvement, or other disposition of such lands as have been, or may hereafter be reserved or granted by the United States or any person or persons, to the State for the use of the university; and the funds accruing from the rents or sale of such lands, or from any other source for the purpose aforesaid, shall be and remain a permanent fund, the interest of which shall be applied to the support of said university, with such branches as the public convenience may demand for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant. And it shall be the duty of the legislature, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said university.

Article X

MODE OF AMENDING AND REVISING THE CONSTITUTION

Section 1. Any amendment or amendments to this constitution may be proposed in the senate or assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and referred to the legislature then next to be chosen, and shall be published for three months next preceding the time of making such choice. And if, in the legislature next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the legislature to

submit such proposed amendment or amendments to the people in such manner and at such time as the legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the legislature, voting thereon, such amendment or amendments, shall become part of the Constitution.

SEC. 2. And if, at any time two-thirds of the senate and assembly shall think it necessary to revise and change this entire constitution, they shall recommend to the electors, at the next election for members of the legislature, to vote for or against the convention; and if it shall appear that a majority of the electors voting at such election have voted in favor of calling a convention, the legislature shall, at its next session, provide by law for calling a convention, to be holden within six months after the passage of such law; and such convention shall consist of a number of members not less than that of both branches of the legislature.

ARTICLE XI

MISCELLANEOUS PROVISIONS

SECTION 1. The first session of the legislature shall be held at the Pueblo de San Jose; which place shall be the permanent seat of government until removed by law: *Provided, however*, That two-thirds of all the members elected to each house of the legislature shall concur in the passage of such law.

SEC. 2. Any citizen of this State who shall, after the adoption of this constitution, fight a duel with deadly weapons, or send, or accept a challenge to fight a duel with deadly weapons, either within this State or out of it; or who shall act as second, or knowingly aid or assist in any manner those thus offending, shall not be allowed to hold any office of profit, or to enjoy the right of suffrage under this constitution.

SEC. 3. Members of the legislature, and all officers, executive and judicial, except such inferior officers and may be by law exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States, and the constitution of the State of California, and that I will faithfully discharge the duties of the office of ——, according to the best of my ability."

And no other oath, declaration, or test, shall be required as a qualification for any office or public trust.

SEC. 4. The legislature shall establish a system of county and town governments, which shall be as nearly uniform as practicable throughout the State.

SEC. 5. The legislature shall have power to provide for the election of a board of supervisors in each county; and these supervisors shall jointly and individually perform such duties as may be prescribed by law.

SEC. 6. All officers whose election or appointment is not provided for by this constitution, and all officers whose offices may hereafter be created by law, shall be elected by the people, or appointed as the legislature may direct.

SEC. 7. When the duration of any office is not provided for by this Constitution, it may be declared by law, and if not so declared, such office shall be held during the pleasure of the authority making the appointment; nor shall the duration of any office not fixed by this constitution ever exceed four years.

SEC. 8. The fiscal year shall commence on the 1st day of July.

SEC. 9. Each county, town, city, and incorporated village, shall make provision for the support of its own officers, subject to such restrictions and regulations as the legislature may prescribe.

SEC. 10. The credit of the State shall not, in any manner, be given or loaned to or in aid of any individual, association, or corporation; nor shall the State directly or indirectly become a stockholder in any association or corporation.

SEC. 11. Suits may be brought against the State in such manner, and in such courts, as shall be directed by law.

SEC. 12. No contract of marriage, if otherwise duly made, shall be invalidated for want of conformity to the requirements of any religious sect.

SEC. 13. Taxation shall be equal and uniform throughout the State. All property in this State shall be taxed in proportion to its value, to be ascertained as directed by law; but assessors and collectors of town, county, and State taxes shall be elected by the qualified electors of the district, county, or town in which the property taxed for State, county, or town purposes is situated.

SEC. 14. All property, both real and personal, of the wife, owned or claimed by marriage, and that acquired afterwards by gift, devise, or descent, shall be her separate property; and laws shall be passed more clearly defining the rights of the wife, in relation as well to her separate property, as to that held in common with her husband. Laws shall also be passed providing for the registration of the wife's separate property.

SEC. 15. The legislature shall protect by law from forced sale a certain portion of the homestead and other property of all heads of families.

SEC. 16. No perpetuities shall be allowed, except for eleemosynary purposes.

SEC. 17. Every person shall be disqualified from holding any office of profit in this State who shall have been convicted of having given or offered a bribe to procure his election or appointment.

SEC. 18. Laws shall be made to exclude from office, serving on juries, and from the right of suffrage, those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice.

SEC. 19. Absence from the State on business of the State or of the United States shall not affect the question of residence of any person.

SEC. 20. A plurality of the votes given at an election shall constitute a choice, where not otherwise directed in this constitution.

SEC. 21. All laws, decrees, regulations, and provisions, which from their nature require publication, shall be published in English and Spanish.

Article XII

BOUNDARY

The boundary of the State of California shall be as follows:

Commencing at the point of intersection of forty-second degree of north latitude with the one hundred and twentieth degree of longitude west from Greenwich, and running south on the line of said one hundred and twentieth degree of west longitude until it intersects the thirty-ninth degree of north latitude; thence running in a straight line in a southeasterly direction to the river Colorado, at a point where it intersects the thirty-fifth degree of north latitude; thence down the middle of the channel of said river to the boundary-line between the United States and Mexico, as established by the treaty of May 30, 1848; thence running west and along said boundary-line to the Pacific Ocean, and extending therein three English miles; thence running in a northwesterly direction, and following the direction of the Pacific coast, to the forty-second degree of north latitude; thence on the line of said forty-second degree of north latitude to the place of beginning. Also all the islands, harbors, and bays along and adjacent to the Pacific coast.

Schedule

Section 1. All rights, prosecutions, claims, and contracts, as well of individuals as of bodies-corporate, and all laws in force at the time of the adoption of this constitution, and not inconsistent therewith, until altered or repealed by the legislature, shall continue as if the same had not been adopted.

Sec. 2. The legislature shall provide for the removal of all causes which may be pending when this constitution goes into effect to courts created by the same.

Sec. 3. In order that no inconvenience may result to the public service from the taking effect of this constitution, no office shall be superseded thereby, nor the laws relative to the duties of the several officers be changed, until the entering into office of the new officers to be appointed under this constitution.

Sec. 4. The provisions of this constitution concerning the term of residence necessary to enable persons to hold certain offices therein mentioned, shall not be held to apply to officers chosen by the people at the first election, or by the legislature at its first session.

Sec. 5. Every citizen of California, declared a legal voter by this constitution, and every citizen of the United States, a resident of this State on the day of election, shall be entitled to vote at the first general election under this constitution, and on the question of the adoption thereof.

Sec. 6. This constitution shall be submitted to the people, for their ratification or rejection, at the general election to be held on Tuesday, the 13th day of November next. The executive of the existing government of California is hereby requested to issue a proclamation to the people, directing the prefects of the several districts, or in case of vacancy, the sub-prefects, or senior judge of first instance, to cause such election to be held, the day aforesaid, in the respective districts. The election shall be conducted in the manner

which was prescribed for the election of delegates to this convention, except that the prefect, sub-prefect, or senior judge of first instance ordering such election in each district, shall have power to designate any additional number of places for opening the polls, and that, in every place of holding the election, a regular poll-list shall be kept by the judges and inspectors of election. It shall also be the duty of these judges and inspectors of election, on the day aforesaid, to receive the votes of the electors qualified to vote at such election. Each voter shall express his opinion, by depositing in the ballot-box a ticket, whereon shall be written, or printed "For the constitution," or "Against the constitution," or some such words as will distinctly convey the intention of the voter. These judges and inspectors shall also receive the votes for the several officers to be voted for at the said election as herein provided. At the close of the election, the judges and inspectors shall carefully count each ballot, and forthwith make duplicate returns thereof to the prefect, sub-prefect, or senior judge of first instance, as the case may be, of their respective districts; and said prefect, sub-prefect, or senior judge of first instance shall transmit one of the same, by the most safe and rapid conveyance, to the secretary of state. Upon the receipt of said returns, or on the 10th day of December next, if the returns be not sooner received, it shall be the duty of a board of canvassers, to consist of the secretary of state, one of the judges of the superior court, the prefect, judge of first instance, and an alcalde of the district of Monterey, or any three of the aforementioned officers, in the presence of all who shall choose to attend, to compare the votes given at said election, and to immediately publish an abstract of the same in one or more of the newspapers of California. And the executive will also immediately after ascertaining that the constitution has been ratified by the people, make proclamation of the fact; and thenceforth this constitution shall be ordained and established as the constitution of California.

Sec. 7. If this constitution shall be ratified by the people of California, the executive of the existing government is hereby requested immediately after the same shall be ascertained, in the manner herein directed, to cause a fair copy thereof to be forwarded to the President of the United States, in order that he may lay it before the Congress of the United States.

Sec. 8. At the general election aforesaid, viz, the thirteenth day of November next, there shall be elected a governor, lieutenant-governor, members of the legislature, and also two members of Congress.

Sec. 9. If this constitution shall be ratified by the people of California, the legislature shall assemble at the seat of government on the fifteenth day of December next, and in order to complete the organization of that body, the senate shall elect a president *pro tempore*, until the lieutenant-governor shall be installed into office.

Sec. 10. On the organization of the legislature, it shall be the duty of the secretary of state, to lay before each house, a copy of the abstract made by the board of canvassers, and if called for, the original returns of election, in order that each house may judge of the correctness of the report of said board of canvassers.

Sec. 11. The legislature, at its first session, shall elect such officers as may be ordered by this constitution, to be elected by that body, and within four days after its organization, proceed to elect two

Senators to the Congress of the United States. But no law passed by this legislature shall take effect until signed by the governor after his installation into office.

SEC. 12. The Senators and Representatives to the Congress of the United States, elected by the legislature and people of California as herein directed, shall be furnished with certified copies of this constitution when ratified, which they shall lay before the Congress of the United States, requesting, in the name of the people of California, the admission of the State of California into the American Union.

SEC. 13. All officers of this State, other than members of the legislature, shall be installed into office on the 15th day of December next, or as soon thereafter as practicable.

SEC. 14. Until the legislature shall divide the State into counties, and senatorial and assembly districts, as directed in this constitution, the following shall be the apportionment of the two houses of the legislature, viz: the districts of San Diego and Los Angeles shall jointly elect two senators; the districts of Santa Barbara and San Luis Obispo shall jointly elect one senator; the district of Monterey, one senator; the district of San Jose, one senator; the district of San Francisco, two senators; the district of Sonoma, one senator; the district of Sacramento, four senators; and the district of San Joaquin, four senators. And the district of San Diego shall elect one member of assembly; the district of Los Angeles, two members of assembly; the district of Santa Barbara, two members of assembly; the district of San Luis Obispo, one member of assembly; the district of Monterey, two members of assembly; the district of San Jose, three members of assembly; the district of San Francisco, five members of assembly; the district of Sonoma, two members of assembly; the district of Sacramento, nine members of assembly; and the district of San Joaquin, nine members of assembly.

SEC. 15. Until the legislature shall otherwise direct, in accordance with the provisions of this constitution, the salary of the governor shall be ten thousand dollars per annum; and the salary of the lieutenant-governor shall be double the pay of a State senator; and the pay of members of the legislature shall be sixteen dollars per diem while in attendance, and sixteen dollars for every twenty miles travel by the usual route from their residences to the place of holding the session of the legislature, and in returning therefrom. And the legislature shall fix the salaries of all officers, other than those elected by the people at the first election.

SEC. 16. The limitation of the powers of the legislature, contained in article eighth of this constitution, shall not extend to the first legislature elected under the same, which is hereby authorized to negotiate for such amount as may be necessary to pay the expenses of the State government.

R. SEMPLE, *President.*

WM. G. MARCY, *Secretary.*

AMENDMENTS TO THE CONSTITUTION OF 1849[a]

(Ratified September 3, 1862)

Strike out the following-named sections and in lieu thereof insert:

ART. IV. SEC. 2. The sessions of the Legislature shall be biennial, and shall commence on the first Monday of December next ensuing the election of its members, unless the Governor of the State shall in the interim, convene the Legislature by proclamation. No session shall continue longer than one hundred and twenty days.

SEC. 3. The members of the Assembly shall be chosen biennially, by the qualified electors of their respective districts, on the first Wednesday in September, unless otherwise ordered by the Legislature, and their term of office shall be two years.

SEC. 5. Senators shall be chosen for the term of four years, at the same time and places as members of Assembly; and no person shall be a member of the Senate, or Assembly, who has not been a citizen and inhabitant of the State, and of the county or district for which he shall be chosen, one year next before his election.

SEC. 6. The number of Senators shall not be less than one third, nor more than one-half, of the members of the Assembly; and at the first session of the Legislature after this section takes effect, the Senators shall be divided by lot, as equally as may be, into two classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, so that one-half shall be chosen biennially.

SEC. 30. When a Congressional, Senatorial, or Assembly District shall be composed of two or more counties, it shall not be separated by any county belonging to another district. No county shall be divided, in forming a Congressional, Senatorial, or Assembly District, so as to attach one portion of a county to another county; but the Legislature may divide each county into as many Congressional, Senatorial, or Assembly Districts as such county may by apportionment be entitled to.

SEC. 39. In order that no inconvenience may result to the public service from the taking effect of the amendments proposed to Article Four by the Legislature of eighteen hundred and sixty-one, no officer shall be suspended or superseded thereby, until the election and qualification of the several officers provided for in said amendments.

ART. V. SEC. 2. The Governor shall be elected by the qualified electors, at the time and places for voting for members of the assembly, and shall hold his office four years from and after the first Monday in December subsequent to his election, and until his successor is elected and qualified.

SEC. 18. A secretary of state, a comptroller, a treasurer, an attorney-general, and a surveyor-general shall be elected at the same time and places, and in the same manner, as the governor and lieutenant-governor, and whose term of office shall be the same as the governor.

SEC. 19. The secretary of state shall keep a fair record of the official acts of the legislative and executive departments of the government, and shall, when required, lay the same, and all matters relative

[a] These amendments, prepared by the legislature in 1861, approved by the legislature of 1862, and ratified by the people.

thereto, before either branch of the legislature, and shall perform such other duties as may be assigned him by law; and in order that no inconvenience may result to the public service, from the taking effect of the amendments proposed to said article five by the legislature of 1861, no officer shall be superseded or suspended thereby, until the election and qualification of the several officers provided for in said amendments.

ART. VI. SECTION 1. The judicial power of this State shall be vested in a supreme court, in district courts, in county courts, in probate courts, and in justices of the peace, and in such recorders and other inferior courts as the legislature may establish in any incorporated city or town.

SEC. 2. The supreme court shall consist of a chief justice and four associate justices. The presence of three justices shall be necessary for the transaction of business, excepting such business as may be done at chambers, and the concurrence of three justices shall be necessary to pronounce a judgment.

SEC. 3. The justices of the supreme court shall be elected by the qualified electors of the State at special elections to be provided by law, at which elections no officer other than judicial shall be elected, except a superintendent of public instruction. The first election for justices of the supreme court shall be held in the year 1863. The justices shall hold their offices for the term of ten years from the 1st day of January next after their election, except those elected at the first election, who, at their first meeting, shall so classify themselves by lot that one justice shall go out of office every two years. The justice having the shortest term to serve shall be the chief justice.

SEC. 4. The supreme court shall have appellate jurisdiction in all cases in equity; also, in all cases at law which involve the title or possession of real estate, or the legality of any tax, impost, assessment, toll, or municipal fine, or in which the demand, exclusive of interest, or the value of the property in controversy, amounts to three hundred dollars; also, in all cases arising in the probate courts; and also, in all criminal cases amounting to felony, on questions of law alone. The court shall also have power to issue writs of *mandamus*, *certiorari*, prohibition, and *habeas corpus*, and also all writs necessary or proper to the complete exercise of its appellate jurisdiction. Each of the justices shall have power to issue writs of *habeas corpus* to any part of the State, upon petition on behalf of any person held in actual custody, and may make such writs returnable before himself, or the supreme court, or before any district court, or any county court in the State, or before any judge of said courts.

SEC. 5. The State shall be divided by the legislature of 1863 into fourteen judicial districts, subject to such alteration from time to time, by a two-thirds vote of all the members elected to both houses, as the public good may require; in each of which there shall be a district court, and for each of which a district judge shall be elected by the qualified electors of the district, at the special judicial elections to be held as provided for the election of justices of the supreme court, by section three of this article. The district judges shall hold their offices for the term of six years from the 1st day of January next after their election. The legislature shall have no power to grant leave of

absence to a judicial officer, and any such officer who shall absent himself from the State for upwards of thirty consecutive days shall be deemed to have forfeited his office.

Sec. 6. The district courts shall have original jurisdiction in all cases in equity; also, in all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand, exclusive of interest or the value of the property in controversy, amounts to three hundred dollars; and also in all criminal cases not otherwise provided for. The district courts and their judges shall have power to issue writs of *habeas corpus*, on petition by or on behalf of any person held in actual custody in their respective districts.

Sec. 7. There shall be in each of the organized counties of the State, a county court, for each of which a county judge shall be elected by the qualified electors of the county, at the special judicial elections to be held as provided for the election of justices of the supreme court by section three of this article. The county judges shall hold their offices for the term of four years from the first day of January next after their election. Said courts shall also have power to issue naturalization-papers. In the city and county of San Francisco, the legislature may separate the office of probate judge from that of county judge, and may provide for the election of a probate judge, who shall hold his office for the term of four years.

Sec. 8. The county courts shall have original jurisdiction of actions of forcible entry and detainer, of proceedings in insolvency, of actions to prevent or abate a nuisance, and of all such special cases and proceedings as are not otherwise provided for; and also such criminal jurisdiction as the legislature may prescribe; they shall also have appellate jurisdiction in all cases arising in courts held by justices of the peace and recorders, and in such inferior courts as may be established, in pursuance of section one of this article, in their respective counties. The county judges shall also hold in their several counties probate courts, and perform such duties as probate judges as may be prescribed by law. The county courts and their judges shall also have power to issue writs of *habeas corpus*, on petition by or on behalf of any person in actual custody in their respective counties.

Sec. 9. The legislature shall determine the number of justices of the peace to be elected in each city and township of the State, and fix by law their powers, duties, and responsibilities; *Provided*, Such powers shall not in any case trench upon the jurisdiction of the several courts of record. The supreme court, the district courts, county courts, the probate courts, and such other courts as the legislature shall prescribe, shall be courts of record.

Sec. 10. The legislature shall fix by law the jurisdiction of any recorder's or other inferior municipal court which may be established in pursuance of section one of this article, and shall fix by law the powers, duties, and responsibilities of the judges thereof.

Sec. 11. The legislature shall provide for the election of a clerk of the supreme court, county clerks, district attorneys, sheriffs, and other necessary officers, and shall fix by law their duties and compensation. County clerks shall be *ex-officio* clerks of the courts of record in and for their respective counties. The legislature may

also provide for the appointment by the several district courts of one or more commissioners in the several counties of their respective districts, with authority to perform chamber business of the judges of the district courts and county courts, and also to take depositions, and to perform such other business connected with the administration of justice as may be prescribed by law.

SEC. 12. The times and places of holding the terms of the several courts of record shall be provided for by law.

SEC. 13. No judicial officer, except justices of the peace, recorders, and commissioners, shall receive to his own use any fees or perquisites of office.

SEC. 14. The legislature shall provide for the speedy publication of such opinions of the supreme court as it may deem expedient; and all opinions shall be free for publication by any person.

SEC. 15. The justices of the supreme court, district judges, and county judges shall severally, at stated times during their continuance in office, receive for their services a compensation which shall not be increased or diminished during the term for which they shall have been elected: *Provided*, That county judges shall be paid out of the county treasury of their respective counties.

SEC. 16. The justices of the supreme court, and the district judges, and the county judges, shall be ineligible to any other office than a judicial office during the term for which they shall have been elected.

SEC. 17. Judges shall not charge juries with respect to matters of fact, but may state the testimony and declare the law.

SEC. 18. The style of all process shall be, "The People of the State of California," and all prosecutions shall be conducted in their name and by their authority.

SEC. 19. In order that no inconvenience may result to the public service from the taking effect of the amendments proposed to said article six by the legislature of 1861, no officer shall be superseded thereby, nor shall the organization of the several courts be changed thereby, until the election and qualification of the several officers provided for in said amendments.

ART. IX. SECTION 1. A superintendent of public instruction shall, at the special election for judicial officers to be held in the year 1863, and every four years thereafter at such special elections, be elected by the qualified voters of the State, and shall enter upon the duties of his office on the 1st day of December next after his election.

ART. X. SEC. 2. And if at any time two-thirds of the senate and assembly shall think it necessary to revise or change this entire constitution, they shall recommend to the electors, at the next election for members of the legislature, to vote for or against a convention, and if it shall appear that a majority of the electors, voting at such election, have voted in favor of calling a convention, the legislature shall, at its next session, provide by law for calling a convention, to be holden within six months after the passage of such law; and such convention shall consist of a number of members not less than that of both branches of the legislature. The constitution that may have been agreed upon and adopted by such convention shall be submitted to the people at a special election, to be provided for by law, for their

ratification or rejection; each voter shall express his opinion by depositing in the ballot-box a ticket, whereon shall be written or printed the words "For the new constitution," or "Against the new constitution." The returns of such election shall, in such manner as the convention shall direct, be certified to the executive of the State, who shall call to his assistance the comptroller, treasurer, and secretary of state, and compare the votes so certified to him. If by such examination it be ascertained that a majority of the whole number of votes cast at such election be in favor of such new constitution, the executive of this State shall, by his proclamation, declare such new constitution to be the constitution of the State of California.

(Ratified in 1871 [a])

ART. I. SEC. 22. The legislature shall have no power to make an appropriation, for any purpose whatever, for a longer period than two years.

CONSTITUTION OF CALIFORNIA—1879 *

Adopted in convention at Sacramento, March 3, A. D. 1879; submitted to and ratified by the people May 7, 1879.

PREAMBLE AND DECLARATION OF RIGHTS

PREAMBLE

We, the people of the State of California, grateful to Almighty God for our freedom, in order to secure and perpetuate its blessings, do establish this Constitution.

ARTICLE I

DECLARATION OF RIGHTS

SECTION 1. All men are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing, and protecting property; and pursuing and obtaining safety and happiness.

SEC. 2. All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right to alter or reform the same whenever the public good may require it.

---

* Verified from "Department of public instruction, Thomas J. Kirk, superintendent. School law of California. Extracts from the Political and Penal Codes; Acts of the Legislature, Relating to Schools, Still in Force; Laws Relating to the State Normal and Polytechnic Schools; Acts Relating to the State Series of Text-Books; Rules and Regulations of the State Board of Education for the Government of Public Schools; Constitution of California; Constitution of the United States. Published for the use of the public schools. Sacramento, W. W. Shannon, superintendent of State printing, 1903." 299 pp.

Also by copies of amendments furnished by the Secretary of State of California, April 4, 1907. [Editor.]

[a] This amendment was proposed by the legislature in 1866, approved by the legislature in 1868, and ratified by the people in 1871.

SEC. 3. The State of California is an inseparable part of the American Union, and the Constitution of the United States is the supreme law of the land.

SEC. 4. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be guaranteed in this State; and no person shall be rendered incompetent to be a witness or juror on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or the safety of the State.

SEC. 5. The privilege of the writ of habeas corpus shall not be suspended unless when, in case of rebellion or invasion, the public safety may require the suspension.

SEC. 6. All persons shall be bailable by sufficient sureties, unless for capital offenses when the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed; nor shall cruel or unusual punishment be inflicted. Witnesses shall not be unreasonably detained, nor confined in any room where criminals are actually imprisoned.

SEC. 7. The right of trial by jury shall be secured to all, and remain inviolate; but in civil actions three fourths of the jury may render a verdict. A trial by jury may be waived in all criminal cases, not amounting to felony, by the consent of both parties, expressed in open Court, and in civil actions by the consent of the parties, signified in such manner as may be prescribed by law. In civil actions, and cases of misdemeanor, the jury may consist of twelve, or of any number less than twelve upon which the parties may agree in open Court.

SEC. 8. Offenses heretofore required to be prosecuted by indictment shall be prosecuted by information, after examination and commitment by a magistrate, or by indictment, with or without such examination and commitment, as may be prescribed by law. A grand jury shall be drawn and summoned at least once a year in each county.

SEC. 9. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives, and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact. Indictments found, or information laid, for publications in newspapers, shall be tried in the county where such newspapers have their publication office, or in the county where the party alleged to be libeled resided at the time of the alleged publication, unless the place of trial shall be changed for good cause.

SEC. 10. The people shall have the right to freely assemble together to consult for the common good, to instruct their representatives, and to petition the Legislature for redress of grievances.

SEC. 11. All laws of a general nature shall have a uniform operation.

SEC. 12. The military shall be subordinate to the civil power. No standing army shall be kept up by this State in time of peace, and no soldier shall, in time of peace, be quartered in any house without

the consent of the owner; nor in time of war, except in the manner prescribed by law.

SEC. 13. In criminal prosecutions, in any Court whatever, the party accused shall have the right to a speedy and public trial; to have the process of the Court to compel the attendance of witnesses in his behalf, and to appear and defend, in person and with counsel. No person shall be twice put in jeopardy for the same offense; nor be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property without due process of law. The Legislature shall have power to provide for the taking, in the presence of the party accused and his counsel, of depositions of witnesses in criminal cases, other than cases of homicide, when there is reason to believe that the witness, from inability or other causes, will not attend at the trial.

SEC. 14. Private property shall not be taken or damaged for public use without just compensation having been first made to, or paid into Court for, the owner, and no right of way shall be appropriated to the use of any corporation other than municipal until full compensation therefor be first made in money or ascertained and paid into Court for the owner, irrespective of any benefit from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived, as in other civil cases in a Court of record, as shall be prescribed by law.

SEC. 15. No person shall be imprisoned for debt in any civil action, or mesne, or final process, unless in case of fraud, nor in civil actions for torts, except in cases of willful injury to person or property; and no person shall be imprisoned for a militia fine in time of peace.

SEC. 16. No bill of attainder, ex post facto law, or law impairing the obligations of contracts, shall ever be passed.

[a] SEC. 17. Foreigners of the white race or of African descent, eligible to become citizens of the United States under the naturalization laws thereof, while bona fide residents of this State, shall have the same rights in respect to the acquisition, possession, enjoyment, transmission, and inheritance of property as native born citizens.

SEC. 18. Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this State.

SEC. 19. The right of the people to be secured in their persons, houses, papers, and effects, against unreasonable seizures and searches, shall not be violated; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

SEC. 20. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or confession in open Court.

SEC. 21. No special privileges or immunities shall ever be granted which may not be altered, revoked, or repealed by the Legislature, nor shall any citizen, or class of citizens, be granted privileges or immunities which, upon the same terms, shall not be granted to all citizens.

SEC. 22. The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.

---

[a] Amended, 1894.

SEC. 23. This enumeration of rights shall not be construed to impair or deny others retained by the people.

SEC. 24. No property qualification shall ever be required for any person to vote or hold office.

ARTICLE II

RIGHT OF SUFFRAGE

[a] SECTION 1. Every native male citizen of the United States, every male person who shall have acquired the rights of citizenship under or by virtue of the treaty of Queretaro, and every male naturalized citizen thereof, who shall have become such ninety days prior to any election, of the age of twenty-one years, who shall have been a resident of the State one year next preceding the election, and of the county in which he claims his vote ninety days, and in the election precinct thirty days, shall be entitled to vote at all elections which are now or may hereafter be authorized by law; *provided*, no native of China, no idiot, insane person, or person convicted of any infamous crime, and no person hereafter convicted of the embezzlement or misappropriation of public money, shall ever exercise the privilege of an elector in this State.

SEC. 2. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at such election, going to and returning therefrom.

* SEC. 3. No elector shall be obliged to perform militia duty on the day of election, except in time of war or public danger.

SEC. 4. For the purposes of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this State or of the United States, or of the high seas; nor while a student at any seminary of learning; nor while kept in any almshouse or other asylum, at public expense; nor while confined in any public prison.

[b] SEC. 5. All elections by the people shall be by ballot.

ARTICLE III

DISTRIBUTION OF POWERS

SECTION 1. The powers of the Government of the State of California shall be divided into three separate departments—the legislative, executive, and judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any functions appertaining to either of the others, except as in this Constitution expressly directed or permitted.

ARTICLE IV

LEGISLATIVE DEPARTMENT

SECTION 1. The legislative power of this State shall be vested in a Senate and Assembly, which shall be designated the Legislature of

---

* New section 2½ inserted by amendment, 1900.

[a] Amended, 1894.

[b] Amended, 1896, 1902.

the State of California, and the enacting clause of every law shall be as follows: "The People of the State of California, represented in Senate and Assembly, do enact as follows."

SEC. 2. The sessions of the Legislature shall commence at twelve o'clock M. on the first Monday after the first day of January next succeeding the election of its members, and, after the election held in the year eighteen hundred and eighty, shall be biennial, unless the Governor shall, in the interim, convene the Legislature by proclamation. No pay shall be allowed to members for a longer time than sixty days, except for the first session after the adoption of this Constitution, for which they may be allowed pay for one hundred days. And no bill shall be introduced in either house after the expiration of ninety days from the commencement of the first session, nor after fifty days after the commencement of each succeeding session, without the consent of two thirds of the members thereof.

SEC. 3. Members of the Assembly shall be elected in the year eighteen hundred and seventy-nine, at the time and in the manner now provided by law. The second election of members of the Assembly, after the adoption of this Constitution, shall be on the first Tuesday after the first Monday in November, eighteen hundred and eighty. Thereafter members of the Assembly shall be chosen biennially, and their term of office shall be two years; and each election shall be on the first Tuesday after the first Monday in November, unless otherwise ordered by the Legislature.

SEC. 4. Senators shall be chosen for the term of four years, at the same time and places as members of the Assembly, and no person shall be a member of the Senate or Assembly who has not been a citizen and inhabitant of the State three years, and of the district for which he shall be chosen one year, next before his election.

SEC. 5. The Senate shall consist of forty members, and the Assembly of eighty members, to be elected by districts, numbered as hereinafter provided. The seats of the twenty Senators elected in the year eighteen hundred and eighty-two from the odd numbered districts shall be vacated at the expiration of the second year, so that one half of the Senators shall be elected every two years; *provided*, that all the Senators elected at the first election under this Constitution shall hold office for the term of three years.

SEC. 6. For the purpose of choosing members of the Legislature, the State shall be divided into forty senatorial and eighty assembly districts, as nearly equal in population as may be, and composed of contiguous territory, to be called senatorial and assembly districts. Each senatorial district shall choose one Senator, and each assembly district shall choose one member of Assembly. The senatorial districts shall be numbered from one to forty, inclusive, in numerical order, and the assembly districts shall be numbered from one to eighty, in the same order, commencing at the northern boundary of the State, and ending at the southern boundary thereof. In the formation of such districts no county, or city and county, shall be divided, unless it contains sufficient population within itself to form two or more districts, nor shall a part of any county, or of any city and county, be united with any other county, or city and county, in forming any district. The census taken under the direction of the Congress of the United States in the year one thousand eight hundred

and eighty, and every ten years thereafter, shall be the basis of fixing and adjusting the legislative districts; and the Legislature shall, at its first session after each census, adjust such districts and reapportion the representation so as to preserve them as near equal in population as may be. But in making such adjustment no persons who are not eligible to become citizens of the United States, under the naturalization laws, shall be counted as forming a part of the population of any district. Until such districting as herein provided for shall be made, Senators and Assemblymen shall be elected by the districts according to the apportionment now provided for by law.

SEC. 7. Each house shall choose its officers, and judge of the qualifications, elections, and returns of its members.

SEC. 8. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each house may provide.

SEC. 9. Each house shall determine the rule of its proceeding, and may, with the concurrence of two thirds of all its members elected, expel a member.

SEC. 10. Each house shall keep a Journal of its proceedings, and publish the same, and the yeas and nays of the members of either house, on any question, shall, at the desire of any three members present, be entered on the Journal.

SEC. 11. Members of the Legislature shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest, and shall not be subject to any civil process during the session of the Legislature, nor for fifteen days next before the commencement and after the termination of each session.

SEC. 12. When vacancies occur in either house, the Governor, or the person exercising the functions of the Governor, shall issue writs of election to fill such vacancies.

SEC. 13. The doors of each house shall be open, except on such occasions as, in the opinion of the house, may require secrecy.

SEC. 14. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any place other than that in which they may be sitting. Nor shall the members of either house draw pay for any recess or adjournment for a longer time than three days.

SEC. 15. No law shall be passed except by bill. Nor shall any bill be put upon its final passage until the same, with the amendments thereto, shall have been printed for the use of the members; nor shall any bill become a law unless the same be read on three several days in each house, unless, in a case of urgency, two thirds of the house where such bill may be pending shall, by a vote of yeas and nays, dispense with this provision. Any bill may originate in either house, but may be amended or rejected by the other; and on the final passage of all bills they shall be read at length, and the vote shall be by yeas and nays upon each bill separately, and shall be entered on the Journal, and no bill shall become a law without the concurrence of a majority of the members elected to each house.

SEC. 16. Every bill which may have passed the Legislature shall, before it becomes a law, be presented to the Governor. If he approve it, he shall sign it; but if not, he shall return it, with his objections,

to the house in which it originated, which shall enter such objections upon the Journal and proceed to reconsider it. If, after such reconsideration, it again passes both houses, by yeas and nays, two thirds of the members elected to each house voting therefor, it shall become a law, nothwithstanding the Governor's objections. If any bill shall not be returned within ten days after it shall have been presented to him (Sundays excepted), the same shall become a law in like manner as if he had signed it, unless the Legislature, by adjournment, prevents such return, in which case it shall not become a law, unless the Governor, within ten days after such adjournment (Sundays excepted), shall sign and deposit the same in the office of the Secretary of State, in which case it shall become a law in like manner as if it had been signed by him before adjournment. If any bill presented to the Governor contains several items of appropriation of money, he may object to one or more items, while approving other portions of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and the reasons therefor, and the appropriations so objected to shall not take effect unless passed over the Governor's veto, as hereinbefore provided. If the Legislature be in session, the Governor shall transmit to the house in which the bill originated a copy of such statement, and the items so objected to shall be separately reconsidered in the same manner as bills which have been disapproved by the Governor.

Sec. 17. The Assembly shall have the sole power of impeachment, and all impeachment shall be tried by the Senate. When sitting for that purpose, the Senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two thirds of the members elected.

Sec. 18. The Governor, Lieutenant-Governor, Secretary of State, Controller, Treasurer, Attorney-General, Surveyor-General, Chief Justice and Associate Justices of the Supreme Court, and Judges of the Superior Courts, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall extend only to removal from office, and disqualification to hold any office of honor, trust, or profit under the State; but the party convicted or acquitted shall nevertheless be liable to indictment, trial, and punishment, according to law. All other civil officers shall be tried for misdemeanor in office in such manner as the Legislature may provide.

Sec. 19. No Senator or member of Assembly shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this State which shall have been created, or the emoluments of which have been increased, during such term, except such offices as may be filled by election by the people.

Sec. 20. No person holding any lucrative office under the United States, or any other power, shall be eligible to any civil office of profit under this State; *provided*, that officers in the militia, who receive no annual salary, local officers, or Postmasters whose compensation does not exceed five hundred dollars per annum, shall not be deemed to hold lucrative offices.

Sec. 21. No person convicted of the embezzlement or defalcation of the public funds of the United States, or of any State, or of any

county or municipality therein, shall ever be eligible to any office of honor, trust, or profit under this State, and the Legislature shall provide, by law, for the punishment of embezzlement or defalcation as a felony.

SEC. 22. No money shall be drawn from the treasury but in consequence of appropriations made by law, and upon warrants duly drawn thereon by the Controller; and no money shall ever be appropriated or drawn from the State Treasury for the use and benefit of any corporation, association, asylum, hospital, or any other institution not under the exclusive management and control of the State as a State institution, nor shall any grant or donation of property ever be made thereto by the State; *provided*, that notwithstanding anything contained in this or any other section of this Constitution, the Legislature shall have the power to grant aid to institutions conducted for the support and maintenance of minor orphans, or half orphans, or abandoned children, or aged persons in indigent circumstances—such aid to be granted by a uniform rule, and proportioned to the number of inmates of such respective institutions; *provided further*, that the State shall have, at any time, the right to inquire into the management of such institution; *provided further*, that whenever any county, or city and county, or city, or town, shall provide for the support of minor orphans, or half orphans, or abandoned children, or aged persons in indigent circumstances, such county, city and county, city, or town, shall be entitled to receive the same pro rata appropriations as may be granted to such institutions under church or other control. An accurate statement of the receipts and expenditures of public moneys shall be attached and published with the laws at every regular session of the Legislature.

SEC. 23. The members of the Legislature shall receive for their services a per diem and mileage, to be fixed by law, and paid out of the public treasury; such per diem shall not exceed eight dollars and such mileage shall not exceed ten cents per mile, and for contingent expenses not exceeding twenty-five dollars for each session. No increase in compensation or mileage shall take effect during the term for which the members of either house shall have been elected, and the pay of no attaché shall be increased after he is elected or appointed.

SEC. 24. Every Act shall embrace but one subject, which subject shall be expressed in its title. But if any subject shall be embraced in an Act which shall not be expressed in its title, such Act shall be void only as to so much thereof as shall not be expressed in its title. No law shall be revised or amended by reference to its title; but in such case the Act revised or section amended shall be reënacted and published at length as revised or amended; and all laws of the State of California, and all official writings, and the executive, legislative, and judicial proceedings, shall be conducted, preserved, and published in no other than the English language.

SEC. 25. The Legislature shall not pass local or special laws in any of the following enumerated cases, that is to say:

First—Regulating the jurisdiction and duties of Justices of the Peace, Police Judges, and of Constables.

Second—For the punishment of crimes and misdemeanors.

Third—Regulating the practice of Courts of justice.

Fourth—Providing for changing the venue in civil or criminal actions.

Fifth—Granting divorces.

Sixth—Changing the names of persons or places.

Seventh—Authorizing the laying out, opening, altering, maintaining, or vacating roads, highways, streets, alleys, town plots, parks, cemeteries, graveyards, or public grounds not owned by the State.

Eighth—Summoning and impaneling grand and petit juries, and providing for their compensation.

Ninth—Regulating county and township business, or the election of county or township officers.

Tenth—For the assessment or collection of taxes.

Eleventh—Providing for conducting elections, or designating the places of voting, except on the organization of new counties.

Twelfth—Affecting estates of deceased persons, minors, or other persons under legal disabilities.

Thirteenth—Extending the time for the collection of taxes.

Fourteenth—Giving effect to invalid deeds, wills, or other instruments.

Fifteenth—Refunding money paid into the State Treasury.

Sixteenth—Releasing, or extinguishing, in whole or in part, the indebtedness, liability, or obligation of any corporation or person to this State, or to any municipal corporation therein.

Seventeenth—Declaring any person of age, or authorizing any minor to sell, lease, or incumber his or her property.

Eighteenth—Legalizing, except as against the State, the unauthorized or invalid act of any officer.

Nineteenth—Granting to any corporation, association, or individual any special or exclusive right, privilege, or immunity.

Twentieth—Exempting property from taxation.

Twenty-first—Changing county seats.

Twenty-second—Restoring to citizenship persons convicted of infamous crimes.

Twenty-third—Regulating the rate of interest on money.

Twenty-fourth—Authorizing the creation, extension, or impairing of liens.

Twenty-fifth—Chartering or licensing ferries, bridges, or roads.

Twenty-sixth—Remitting fines, penalties, or forfeitures.

Twenty-seventh—Providing for the management of common schools.

Twenty-eighth—Creating offices, or prescribing the powers and duties of officers in counties, cities, cities and counties, township, election, or school districts.

Twenty-ninth—Affecting the fees or salary of any officer.

Thirtieth—Changing the law of descent or succession.

Thirty-first—Authorizing the adoption or legitimation of children.

Thirty-second—For limitation of civil or criminal actions.

Thirty-third—In all other cases where a general law can be made applicable.

* Sec. 26. The Legislature shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to

* Amended, new section 25½, 1902.

prohibit the sale in this State of lottery or gift enterprise tickets, or tickets in any scheme in the nature of a lottery. The Legislature shall pass laws to regulate or prohibit the buying and selling of the shares of the capital stock of corporations in any stock board, stock exchange, or stock market under the control of any association. All contracts for the sale of shares of the capital stock of any corporation or association, on margin, or to be delivered at a future day, shall be void, and any money paid on such contracts may be recovered by the party paying it by suit in any Court of competent jurisdiction.

SEC. 27. When a congressional district shall be composed of two or more counties, it shall not be separated by any county belonging to another district. No county, or city and county, shall be divided in forming a congressional district so as to attach one portion of a county, or city and county, to another county, or city and county, except in cases where one county, or city and county, has more population than the ratio required for one or more Congressmen; but the Legislature may divide any county, or city and county, into as many congressional districts as it may be entitled to by law. Any county, or city and county, containing a population greater than the number required for one congressional district shall be formed into one or more congressional districts, according to the population thereof, and any residue, after forming such district or districts, shall be attached by compact adjoining assembly districts, to a contiguous county or counties, and form a congressional district. In dividing a county, or city and county, into congressional districts, no assembly district shall be divided so as to form a part of more than one congressional district, and every such congressional district shall be composed of compact contiguous assembly districts.

SEC. 28. In all elections by the Legislature the members thereof shall vote viva voce, and the votes shall be entered on the Journal.

SEC. 29. The general appropriation bill shall contain no item or items of appropriation other than such as are required to pay the salaries of the State officers, and expenses of the government, and of the institutions under the exclusive control and management of the State.

SEC. 30. Neither the Legislature, nor any county, city and county, township, school district, or other municipal corporation, shall ever make an appropriation, or pay from any public fund whatever, or grant anything to or in aid of any religious sect, church, creed, or sectarian purpose, or help to support or sustain any school, college, university, hospital, or other institution controlled by any religious creed, church, or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the State, or any city, city and county, town, or other municipal corporation, for any religious creed, church, or sectarian purpose whatever; *provided*, that nothing in this section shall prevent the Legislature granting aid pursuant to section twenty-two of this article.

SEC. 31. The Legislature shall have no power to give or to lend, or to authorize the giving or lending of the credit of the State, or of any county, city and county, city, township, or other political corporation or subdivision of the State now existing, or that may be hereafter established, in aid of or to any person, association, or corporation, whether municipal or otherwise, or to pledge the credit thereof, in any manner whatever, for the payment of the liabilities of any individual,

association, municipal or other corporation whatever; nor shall it have power to make any gift, or authorize the making of any gift, or any public money or thing of value, to any individual, municipal or other corporation whatever; *provided*, that nothing in this section shall prevent the Legislature granting aid pursuant to section twenty-two of this article; and it shall not have power to authorize the State, or any political subdivision thereof, to subscribe for stock, or to become a stockholder in any corporation whatever.

SEC. 32. The Legislature shall have no power to grant, or authorize any county or municipal authority to grant, any extra compensation or allowance to any public officer, agent, servant, or contractor, after service has been rendered, or a contract has been entered into and performed, in whole or in part, nor to pay or to authorize the payment of, any claim hereafter created against the State, or any county or municipality of the State, under any agreement or contract made without express authority of law; and all such unauthorized agreements or contracts shall be null and void.

SEC. 33. The Legislature shall pass laws for the regulation and limitation of the charges for services performed and commodities furnished by telegraph and gas corporations, and the charges by corporations or individuals for storage and wharfage, in which there is a public use; and where laws shall provide for the selection of any person or officer to regulate or limit such rates, no person or officer shall be selected by any corporation or individual interested in the business to be regulated, and no person shall be selected who is an officer or stockholder in any such corporation.

SEC. 34. No bill making an appropriation for money, except the general appropriation bill, shall contain more than one item of appropriation, and that for one single and certain purpose to be therein expressed.

SEC. 35. Any person who seeks to influence the vote of a member of the Legislature by bribery, promise of reward, intimidation, or any other dishonest means, shall be guilty of lobbying, which is hereby declared a felony; and it shall be the duty of the Legislature to provide, by law, for the punishment of this crime. Any member of the Legislature, who shall be influenced in his vote or action upon any matter pending before the Legislature by any reward, or promise of future reward, shall be deemed guilty of a felony, and upon conviction thereof, in addition to such punishment as may be provided by law, shall be disfranchised and forever disqualified from holding any office of public trust. Any person may be compelled to testify in any lawful investigation or judicial proceeding against any person who may be charged with having committed the offense of bribery or corrupt solicitation, or with having been influenced in his vote or action, as a member of the Legislature, by reward, or promise of future reward, and shall not be permitted to withhold his testimony upon the ground that it may criminate himself, or subject him to public infamy; but such testimony shall not afterwards be used against him in any judicial proceeding, except for perjury in giving such testimony.

[Amended. New Section 36, 1902. See under "Amendments" to this Constitution.]

Article V

Executive Department

Section 1. The supreme executive power of this State shall be vested in a Chief Magistrate, who shall be styled the Governor of the State of California.

Sec. 2. The Governor shall be elected by the qualified electors at the time and place of voting for members of the Assembly, and shall hold his office four years from and after the first Monday after the first day of January subsequent to his election, and until his successor is elected and qualified.

Sec. 3. No person shall be eligible to the office of Governor who has not been a citizen of the United States and a resident of this State five years next preceding his election, and attained the age of twenty-five years at the time of such election.

Sec. 4. The returns of every election for Governor shall be sealed up and transmitted to the seat of government, directed to the Speaker of the Assembly, who shall, during the first week of the session, open and publish them in the presence of both houses of the Legislature. The person having the highest number of votes shall be Governor; but, in case any two or more have an equal and the highest number of votes, the Legislature shall, by joint vote of both houses, choose one of such persons having an equal and the highest number of votes for Governor.

Sec. 5. The Governor shall be Commander-in-Chief of the militia, the army and navy of this State.

Sec. 6. He shall transact all executive business with the officers of government, civil and military, and may require information, in writing, from the officers of the executive department, upon any subject relating to the duties of their respective offices.

Sec. 7. He shall see that all the laws are faithfully executed.

Sec. 8. When any office shall, from any cause, become vacant, and no mode is provided by the Constitution and law for filling such vacancy, the Governor shall have power to fill such vacancy by granting a commission, which shall expire at the end of the next session of the Legislature, or at the next election by the people.

Sec. 9. He may, on extraordinary occasions, convene the Legislature by proclamation, stating the purposes for which he has convened it, and when so convened it shall have no power to legislate on any subjects other than those specified in the proclamation, but may provide for the expenses of the session and other matters incidental thereto.

Sec. 10. He shall communicate by message to the Legislature, at every session, the condition of the State, and recommend such matters as he shall deem expedient.

Sec. 11. In case of disagreement between the two houses with respect to the time of adjournment, the Governor shall have power to adjourn the Legislature to such time as he may think proper; *provided*, it be not beyond the time fixed for the meeting of the next Legislature.

Sec. 12. No person shall, while holding any office under the United States or this State, exercise the office of Governor except as hereinafter expressly provided.

SEC. 13. There shall be a seal of this State, which shall be kept by the Governor, and used by him officially, and shall be called "The Great Seal of the State of California."

SEC. 14. All grants and commissions shall be in the name and by the authority of The People of the State of California, sealed with the great seal of the State, signed by the Governor, and countersigned by the Secretary of State.

* SEC. 15. A Lieutenant-Governor shall be elected at the same time and places, and in the same manner, as the Governor, and his term of office and his qualifications of eligibility shall also be the same. He shall be the President of the Senate, but shall have only a casting vote therein. If, during a vacancy of the office of Governor, the Lieutenant-Governor shall be impeached, displaced, resign, die, or become incapable of performing the duties of his office, or be absent from the State, the President pro tempore of the Senate shall act as Governor until the vacancy be filled or the disability shall cease. The Lieutenant-Governor shall be disqualified from holding any other office, except as specially provided in this Constitution, during the term for which he shall have been elected.

* SEC. 16. In case of the impeachment of the Governor, or his removal from office, death, inability to discharge the powers and duties of the said office, resignation, or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant-Governor for the residue of the term, or until the disability shall cease. But when the Governor shall, with the consent of the Legislature, be out of the State in time of war, at the head of any military force thereof, he shall continue Commander-in-Chief of all the military forces of the State.

SEC. 17. A Secretary of State, a Controller, a Treasurer, an Attorney-General, and a Surveyor-General shall be elected at the same time and places, and in the same manner, as the Governor and Lieutenant-Governor, and their terms of office shall be the same as that of the Governor.

SEC. 18. The Secretary of State shall keep a correct record of the official acts of the legislative and executive departments of the government, and shall, when required, lay the same, and all matters relative thereto, before either branch of the Legislature, and shall perform such other duties as may be assigned him by law.

SEC. 19. The Governor, Lieutenant-Governor, Secretary of State, Controller, Treasurer, Attorney-General, and Surveyor-General, shall, at stated times during their continuance in office, receive for their services a compensation which shall not be increased or diminished during the term for which they shall have been elected, which compensation is hereby fixed for the following officers for the two terms next ensuing the adoption of this Constitution, as follows: Governor, six thousand dollars per annum; Lieutenant-Governor, the same per diem as may be provided by law for the Speaker of the Assembly, to be allowed only during the session of the Legislature; the Secretary of State, Controller, Treasurer, Attorney-General, and Surveyor-General, three thousand dollars each per annum, such compensation to be in full for all services by them, respectively, rendered in any official capacity or employment whatsoever during

* Amended, 1898.

their respective terms of office; *provided*, *however*, that the Legislature, after the expiration of the terms hereinbefore mentioned, may by law diminish the compensation of any or all such officers, but in no case shall have the power to increase the same above the sums hereby fixed by this Constitution. No salary shall be authorized by law for clerical service, in any office provided for in this article, exceeding sixteen hundred dollars per annum for each clerk employed. The Legislature may, in its discretion, abolish the office of Surveyor-General; and none of the officers hereinbefore named shall receive for their own use any fees or perquisites for the performance of any official duty.

SEC. 20. The Governor shall not, during his term of office, be elected a Senator to the Senate of the United States.

ARTICLE VI

JUDICIAL DEPARTMENT

SECTION 1. The judicial power of the State shall be vested in the Senate sitting as a Court of Impeachment, in a Supreme Court, Superior Courts, Justices of the Peace, and such inferior Courts as the Legislature may establish in any incorporated city, or town, or city and county.

SEC. 2. The Supreme Court shall consist of a Chief Justice and six Associate Justices. The Court may sit in departments and in bank, and shall always be open for the transaction of business. There shall be two departments, denominated, respectively, Department One and Department Two. The Chief Justice shall assign three of the Associate Justices to each department, and such assignment may be changed by him from time to time. The Associate Justices shall be competent to sit in either department, and may interchange with each other by agreement among themselves or as ordered by the Chief Justice. Each of the departments shall have the power to hear and determine causes and all questions arising therein, subject to the provisions hereinafter contained in relation to the Court in bank. The presence of three Justices shall be necessary to transact any business in either of the departments, except such as may be done at chambers, and the concurrence of three Justices shall be necessary to pronounce a judgment. The Chief Justice shall apportion the business to the departments, and may, in his discretion, order any cause pending before the Court to be heard and decided by the Court in bank. The order may be made before or after judgment pronounced by a department; but where a cause has been allotted to one of the departments, and a judgment pronounced thereon, the order must be made within thirty days after such judgment and concurred in by two Associate Justices, and if so made it shall have the effect to vacate and set aside the judgment. Any four Justices may, either before or after judgment by a department, order a case to be heard in bank. If the order be not made within the time above limited, the judgment shall be final. No judgment by a department shall become final until the expiration of the period of thirty days aforesaid, unless approved by the Chief Justice in writing, with the concurrence of two Associate Justices. The Chief Justice may convene the Court in bank at any time, and shall be the presiding Justice of the Court when so

convened. The concurrence of four Justices present at the argument shall be necessary to pronounce a judgment in bank; but if four Justices, so present, do not concur in a judgment, then all the Justices qualified to sit in the cause shall hear the argument; but to render a judgment a concurrence of four Judges shall be necessary. In the determination of causes, all decisions of the Court in bank or in departments shall be given in writing, and the grounds of the decision shall be stated. The Chief Justice may sit in either department, and shall preside when so sitting, but the Justices assigned to each department shall select one of their number as presiding Justice. In case of the absence of the Chief Justice from the place at which the Court is held, or his inability to act, the Associate Justices shall select one of their own number to perform the duties and exercise the powers of the Chief Justice during such absence or inability to act.

Sec. 3. The Chief Justice and the Associate Justices shall be elected by the qualified electors of the State at large at the general State elections, at the times and places at which the State officers are elected; and the term of office shall be twelve years from and after the first Monday after the first day of January next succeeding their election; *provided*, that the six Associate Justices elected at the first election shall, at their first meeting, so classify themselves, by lot, that two of them shall go out of office at the end of four years, two of them at the end of eight years, and two of them at the end of twelve years, and an entry of such classification shall be made in the minutes of the Court in bank, signed by them, and a duplicate thereof shall be filed in the office of the Secretary of State. If a vacancy occurs in the office of a Justice, the Governor shall appoint a person to hold the office until the election and qualification of a Justice to fill the vacancy, which election shall take place at the next succeeding general election, and the Justice so elected shall hold the office for the remainder of the unexpired term. The first election of the Justices shall be at the first general election after the adoption and ratification of this Constitution.

Sec. 4. The Supreme Court shall have appellate jurisdiction in all cases in equity, except such as arise in Justices' Courts; also, in all cases at law which involve the title or possession of real estate, or the legality of any tax, impost, assessment, toll, or municipal fine, or in which the demand, exclusive of interest, or the value of the property in controversy, amounts to three hundred dollars; also, in cases of forcible entry and detainer, and in proceedings in insolvency, and in actions to prevent or abate a nuisance, and in all such probate matters as may be provided by law; also, in all criminal cases prosecuted by indictment or information in a Court of record on questions of law alone. The Court shall also have power to issue writs of mandamus, certiorari, prohibition, and habeas corpus, and all other writs necessary or proper to the complete exercise of its appellate jurisdiction. Each of the Justices shall have power to issue writs of habeas corpus to any part of the State, upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself, or the Supreme Court, or before any Superior Court in the State, or before any Judge thereof.

Sec. 5. The Superior Court shall have original jurisdiction in all cases in equity, and in all cases at law which involve the title or pos-

session of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand, exclusive of interest or the value of the property in controversy, amounts to three hundred dollars, and in all criminal cases amounting to felony, and in cases of misdemeanor not otherwise provided for; of actions of forcible entry and detainer; of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate; of divorce and for annulment of marriage, and of all such special cases of proceedings as are not otherwise provided for. And said Court shall have the power of naturalization, and to issue papers therefor. They shall have appellate jurisdiction in such cases arising in Justices' and other inferior Courts in their respective counties as may be prescribed by law. They shall always be open (legal holidays and non-judicial days excepted), and their process shall extend to all parts of the State; *provided*, that all actions for the recovery of the possession of, quieting the title to, or for the enforcement of liens upon real estate, shall be commenced in the county in which the real estate, or any part thereof affected by such action or actions, is situated. Said Courts, and their Judges, shall have power to issue writs of mandamus, certiorari, prohibition, quo warranto, and habeas corpus, on petition by or on behalf of any person in actual custody in their respective counties. Injunctions and writs of prohibition may be issued and served on legal holidays and non-judicial days.

Sec. 6. There shall be in each of the organized counties, or cities and counties, of the State, a Superior Court, for each of which at least one Judge shall be elected by the qualified electors of the county, or city and county, at the general State election; *provided*, that until otherwise ordered by the Legislature, only one Judge shall be elected for the Counties of Yuba and Sutter, and that in the City and County of San Francisco there shall be elected twelve Judges of the Superior Court, any one or more of whom may hold Court. There may be as many sessions of said Court, at the same time, as there are Judges thereof. The said Judges shall choose, from their own number, a presiding Judge, who may be removed at their pleasure. He shall distribute the business of the Court among the Judges thereof, and prescribe the order of business. The judgments, orders, and proceedings of any session of the Superior Court held by any one or more of the Judges of said Courts, respectively, shall be equally effectual as if all the Judges of said respective Courts presided at such session. In each of the Counties of Sacramento, San Joaquin, Los Angeles, Sonoma, Santa Clara, and Alameda there shall be elected two such Judges. The term of office of Judges of the Superior Courts shall be six years from and after the first Monday of January next succeeding their election; *provided*, that the twelve Judges of the Superior Court elected in the City and County of San Francisco, at the first election held under this Constitution, shall at their first meeting so classify themselves, by lot, that four of them shall go out of office at the end of two years, and four of them shall go out of office at the end of four years, and four of them shall go out of office at the end of six years, and an entry of such classification shall be made in the minutes of the Court, signed by them, and a duplicate thereof filed in the office of the Secretary of State. The first election of Judges of the Superior Courts shall take place at the first general election held after the adoption and ratification of this Constitution.

If a vacancy occur in the office of Judge of a Superior Court, the Governor shall appoint a person to hold the office until the election and qualification of a Judge to fill the vacancy, which election shall take place at the next succeeding general election, and the Judge so elected shall hold office for the remainder of the unexpired term.

SEC. 7. In any county, or city and county, other than the City and County of San Francisco, in which there shall be more than one Judge of the Superior Court, the Judges of such Court may hold as many sessions of said Court at the same time as there are Judges thereof, and shall apportion the business among themselves as equally as may be.

SEC. 8. A Judge of any Superior Court may hold a Superior Court in any county, at the request of a Judge of the Superior Court thereof; and upon request of the Governor it shall be his duty so to do. But a cause in a Superior Court may be tried by a Judge pro tempore, who must be a member of the bar, agreed upon in writing by the parties litigant or their attorneys of record, approved by the Court, and sworn to try the cause.

SEC. 9. The Legislature shall have no power to grant leave of absence to any judicial officer; and any such officer who shall absent himself from the State for more than sixty consecutive days shall be deemed to have forfeited his office. The Legislature of the State may, at any time, two thirds of the members of the Senate and two thirds of the members of the Assembly voting therefor, increase or diminish the number of Judges of the Superior Court in any county, or city and county, in the State; *provided*, that no such reduction shall affect any Judge who has been elected.

SEC. 10. Justices of the Supreme Court and Judges of the Superior Courts may be removed by concurrent resolution of both houses of the Legislature, adopted by a two-thirds vote of each house. All other judicial officers, except Justices of the Peace, may be removed by the Senate on the recommendation of the Governor, but no removal shall be made by virtue of this section, unless the cause thereof be entered on the Journal, nor unless the party complained of has been served with a copy of the complaint against him, and shall have had an opportunity of being heard in his defense. On the question of removal, the ayes and noes shall be entered on the Journal.

SEC. 11. The Legislature shall determine the number of Justices of the Peace to be elected in townships, incorporated cities and towns, or cities and counties, and shall fix by law the powers, duties, and responsibilities of Justices of the Peace; *provided*, such powers shall not in any case trench upon the jurisdiction of the several Courts of record, except that said Justices shall have concurrent jurisdiction with the Superior Court in cases of forcible entry and detainer, where the rental value does not exceed twenty-five dollars per month, and where the whole amount of damages claimed does not exceed two hundred dollars, and in cases to enforce and foreclose liens on personal property when neither the amount of the liens nor the value of the property amounts to three hundred dollars.

SEC. 12. The Supreme Court, the Superior Courts, and such other Courts as the Legislature may prescribe, shall be Courts of record.

SEC. 13. The Legislature shall fix by law the jurisdiction of any inferior Courts which may be established in pusuance of section one

of this article, and shall fix by law the powers, duties, and responsibilities of the Judges thereof.

SEC. 14. The Legislature shall provide for the election of a Clerk of the Supreme Court, and shall fix by law his duties and compensation, which compensation shall not be increased or diminished during the term for which he shall have been elected. The County Clerks shall be ex officio Clerks of the Courts of record in and for their respective counties, or cities and counties. The Legislature may also provide for the appointment, by the several Superior Courts, of one or more Commissioners in their respective counties, or cities and counties, with authority to perform chamber business of the Judges of the Superior Courts, to take depositions, and perform such other business connected with the administration of justice as may be prescribed by law.

SEC. 15. No judicial officer, except Justices of the Peace and Court Commissioners, shall receive to his own use any fees or perquisites of office.

SEC. 16. The Legislature shall provide for the speedy publication of such opinions of the Supreme Court as it may deem expedient, and all opinions shall be free for publication by any person.

* SEC. 17. The Justices of the Supreme Court and Judges of the Superior Courts shall severally, at stated times during their continuance in office, receive for their services a compensation which shall not be increased or diminished after their election, nor during the term for which they shall have been elected. The salaries of the Justices of the Supreme Court shall be paid by the State. One half of the salary of each Superior Court Judge shall be paid by the State; the other half thereof shall be paid by the county for which he is elected. During the term of the first Judges elected under this Constitution, the annual salaries of the Justices of the Supreme Court shall be six thousand dollars each. Until otherwise changed by the Legislature, the Superior Court Judges shall receive an annual salary of three thousand dollars each, payable monthly, except the Judges of the City and County of San Francisco, and the Counties of Alameda, San Joaquin, Los Angeles, Santa Clara, Yuba and Sutter combined, Sacramento, Butte, Nevada, and Sonoma, who shall receive four thousand dollars each.

SEC. 18. The Justices of the Supreme Court and Judges of the Superior Courts shall be ineligible to any other office of public employment than a judicial office or employment during the term for which they shall have been elected.

SEC. 19. Judges shall not charge juries with respect to matters of fact, but may state the testimony and declare the law.

SEC. 20. The style of all process shall be "The People of the State of California," and all prosecutions shall be conducted in their name and by their authority.

SEC. 21. The Justices shall appoint a Reporter of the decisions of the Supreme Court, who shall hold his office and be removable at their pleasure. He shall receive an annual salary not to exceed twenty-five hundred dollars, payable monthly.

SEC. 22. No Judge of a Court of record shall practice law in any Court of this State during his continuance in office.

---

*Amended, 1905.

Sec. 23. No one shall be eligible to the office of Justice of the Supreme Court, or to the office of Judge of a Superior Court, unless he shall have been admitted to practice before the Supreme Court of the State.

Sec. 24. No Judge of a Superior Court, nor of the Supreme Court, shall, after the first day of July, one thousand eight hundred and eighty, be allowed to draw or receive any monthly salary unless he shall take and subscribe to an affidavit before an officer entitled to administer oaths, that no cause in his Court remains undecided that has been submitted for decision for the period of ninety days.

Article VII

PARDONING POWER

Section 1. The Governor shall have the power to grant reprieves, pardons, and commutations of sentence, after conviction, for all offenses except treason and cases of impeachment, upon such conditions, and with such restrictions and limitations, as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, the Governor shall have power to suspend the execution of the sentence until the case shall be reported to the Legislature at its next meeting, when the Legislature shall either pardon, direct the execution of the sentence, or grant a further reprieve. The Governor shall communicate to the Legislature, at the beginning of every session, every case of reprieve or pardon granted, stating the name of the convict, the crime for which he was convicted, the sentence, its date, the date of the pardon or reprieve, and the reasons for granting the same. Neither the Governor nor the Legislature shall have power to grant pardons, or commutations of sentence, in any case where the convict has been twice convicted of felony, unless upon the written recommendation of a majority of the Judges of the Supreme Court.

Article VIII

MILITIA

Section 1. The Legislature shall provide, by law, for organizing and disciplining the militia, in such manner as it may deem expedient, not incompatible with the Constitution and laws of the United States. Officers of the militia shall be elected or appointed in such manner as the Legislature shall, from time to time, direct, and shall be commissioned by the Governor. The Governor shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, and repel invasions.

Sec. 2. All military organizations provided for by this Constitution, or any law of this State, and receiving State support, shall, while under arms, either for ceremony or duty, carry no device, banner, or flag of any State or nation, except that of the United States or the State of California.

Article IX.

EDUCATION

Section 1. A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the Legislature shall encourage by all suitable means the promotion of intellectual, scientific, moral, and agricultural improvement.

Sec. 2. A Superintendent of Public Instruction shall, at each gubernatorial election after the adoption of this Constitution, be elected by the qualified electors of the State. He shall receive a salary equal to that of the Secretary of State, and shall enter upon the duties of his office on the first Monday after the first day of January next succeeding his election.

Sec. 3. A Superintendent of Schools for each county shall be elected by the qualified electors thereof at each gubernatorial election; *provided*, that the Legislature may authorize two or more counties to unite and elect one Superintendent for the counties so uniting.

Sec. 4. The proceeds of all lands that have been or may be granted by the United States to this State for the support of common schools, which may be, or may have been, sold or disposed of, and the five hundred thousand acres of land granted to the new States under an Act of Congress distributing the proceeds of the public lands among the several States of the Union, approved A. D. one thousand eight hundred and forty-one, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent as may be granted, or may have been granted, by Congress on the sale of lands in this State, shall be and remain a perpetual fund, the interest of which, together with all the rents of the unsold lands, and such other means as the Legislature may provide, shall be inviolably appropriated to the support of common schools throughout the State.

Sec. 5. The Legislature shall provide for a system of common schools by which a free school shall be kept up and supported in each district at least six months in every year, after the first year in which a school has been established.

* Sec. 6. The public school system shall include primary and grammar schools, and such high schools, evening schools, normal schools, and technical schools, as may be established by the Legislature, or by municipal or district authority; but the entire revenue derived from the State School Fund, and the State school tax, shall be applied exclusively to the support of primary and grammar schools.

[a] Sec. 7. The Governor, Superintendent of Public Instruction, and the Principals of the State Normal Schools, shall constitute the State Board of Education, and shall compile, or cause to be compiled, and adopt a uniform series of text-books for use in the common schools throughout the State. The State Board may cause such text-books, when adopted, to be printed and published by the Superintendent of State Printing, at the State Printing Office, and when so printed and published, to be distributed and sold at the cost price of printing, publishing, and distributing the same. The text-books so adopted shall continue in use not less than four years; and said State Board shall perform such other duties as may be prescribed by law. The Legislature shall provide for a Board of Education in each county in the

*Amended, 1902.
[a]Amended, 1894.

State. The County Superintendents and the County Boards of Education shall have control of the examination of teachers and the granting of teachers' certificates within their respective jurisdictions. [Amendment adopted November 4, 1884.]

Sec. 8. No public money shall ever be appropriated for the support of any sectarian or denominational school, or any school not under the exclusive control of the officers of the public schools; nor shall any sectarian or denominational doctrine be taught, or instruction thereon be permitted, directly or indirectly, in any of the common schools of this State.

Sec. 9. The University of California shall constitute a public trust, and its organization and government shall be perpetually continued in the form and character prescribed by the organic Act creating the same, passed March twenty-third, eighteen hundred and sixty-eight (and the several Acts amendatory thereof), subject only to such legislative control as may be necessary to insure compliance with the terms of its endowments and the proper investment and security of its funds. It shall be entirely independent of all political or sectarian influence, and kept free therefrom in the appointment of its Regents, and in the administration of its affairs; *provided*, that all the moneys derived from the sale of the public lands donated to this State by Act of Congress, approved July second, eighteen hundred and sixty-two (and the several Acts amendatory thereof), shall be invested as provided by said Acts of Congress, and the interest of said moneys shall be inviolably appropriated to the endowment, support, and maintenance of at least one College of Agriculture, where the leading objects shall be (without excluding other scientific and classical studies, and including military tactics) to teach such branches of learning as are related to scientific and practical agriculture and the mechanic arts, in accordance with the requirements and conditions of said Acts of Congress; and the Legislature shall provide that if, through neglect, misappropriation, or any other contingency, any portion of the funds so set apart shall be diminished or lost, the State shall replace such portion so lost or misappropriated, so that the principal thereof shall remain forever undiminished. No person shall be debarred admission to any of the collegiate departments of the University on account of sex.

(Amended. New sections 10, 11, 1900; section 13, 1905.)

Article X

STATE INSTITUTIONS AND PUBLIC BUILDINGS

Section 1. There shall be a State Board of Prison Directors, to consist of five persons, to be appointed by the Governor, with the advice and consent of the Senate, who shall hold office for ten years, except that the first appointed shall, in such manner as the Legislature may direct, be so classified that the term of one person so appointed shall expire at the end of each two years during the first ten years, and vacancies occurring shall be filled in like manner. The appointee to a vacancy occurring before the expiration of a term, shall hold office only for the unexpired term of his predecessor. The Governor shall have the power to remove either of the Directors for misconduct, incompetency, or neglect of duty, after an opportunity to be heard upon written charges.

SEC. 2. The Board of Directors shall have the charge and superintendence of the State Prisons, and shall possess such powers and perform such duties, in respect to other penal and reformatory institutions of the State, as the Legislature may prescribe.

SEC. 3. The Board shall appoint the Warden and Clerk, and determine the other necessary officers of the prison. The Board shall have power to remove the Wardens and Clerks for misconduct, incompetency, or neglect of duty. All other officers and employés of the prisons shall be appointed by the Warden thereof, and be removed at his pleasure.

SEC. 4. The members of the Board shall receive no compensation, other than reasonable traveling and other expenses incurred while engaged in the performance of official duties, to be audited as the Legislature may direct.

SEC. 5. The Legislature shall pass such laws as may be necessary to further define and regulate the powers and duties of the Board, Wardens, and Clerks, and to carry into effect the provisions of this article.

SEC. 6. After the first day of January, eighteen hundred and eighty-two, the labor of convicts shall not be let out by contract to any person, copartnership, company, or corporation, and the Legislature shall, by law, provide for the working of convicts for the benefit of the State.

ARTICLE XI

CITIES, COUNTIES, AND TOWNS

SECTION 1. The several counties, as they now exist, are hereby recognized as legal subdivisions of this State.

SEC. 2. No county seat shall be removed unless two thirds of the qualified electors of the county, voting on the proposition at a general election, shall vote in favor of such removal. A proposition of removal shall not be submitted in the same county more than once in four years.

* SEC. 3. No new county shall be established which shall reduce any county to a population of less than eight thousand; nor shall a new county be formed containing a less population than five thousand, nor shall any line thereof pass within five miles of the county seat of any county proposed to be divided. Every county which shall be enlarged or created from territory taken from any other county or counties, shall be liable for a just proportion of the existing debts and liabilities of the county or counties from which such territory shall be taken.

SEC. 4. The Legislature shall establish a system of county governments which shall be uniform throughout the State; and by general laws shall provide for township organization, under which any county may organize whenever a majority of the qualified electors of such county, voting at a general election, shall so determine; and whenever a county shall adopt township organization, the assessment and collection of the revenue shall be made and the business of such

* Amended, 1894.

county and the local affairs of the several townships therein shall be managed and transacted in the manner prescribed by such general laws.

SEC. 5. The Legislature, by general and uniform laws, shall provide for the election or appointment, in the several counties, of Boards of Supervisors, Sheriffs, County Clerks, District Attorneys, and such other county, township, and municipal officers as public convenience may require, and shall prescribe their duties, and fix their terms of office. It shall regulate the compensation of all such officers, in proportion to duties, and for this purpose may classify the counties by population; and it shall provide for the strict accountability of county and township officers for all fees which may be collected by them, and for all public and municipal moneys which may be paid to them, or officially come into their possession.

* SEC. 6. Corporations for municipal purposes shall not be created by special laws; but the Legislature, by general laws, shall provide for the incorporation, organization, and classification, in proportion to population, of cities and towns, which laws may be altered, amended, or repealed. Cities and towns heretofore organized or incorporated may become organized under such general laws whenever a majority of the electors voting at a general election shall so determine, and shall organize in conformity therewith; and cities or towns heretofore or hereafter organized, and all charters thereof framed or adopted by authority of this Constitution, shall be subject to and controlled by general laws.

[a] SEC. 7. City and county governments may be merged and consolidated into one municipal government, with one set of officers, and may be incorporated under general laws providing for the incorporation and organization of corporations for municipal purposes. The provisions of this Constitution applicable to cities, and also those applicable to counties, so far as not inconsistent or not prohibited to cities, shall be applicable to such consolidated government. In consolidated city and county governments, of more than one hundred thousand population, there shall be two Boards of Supervisors or houses of legislation—one of which, to consist of twelve persons, shall be elected by general ticket from the city and county at large, and shall hold office for the term of four years, but shall be so classified that after the first election only six shall be elected every two years; the other, to consist of twelve persons, shall be elected every two years, and shall hold office for the term of two years. Any vacancy occurring in the office of Supervisor, in either Board, shall be filled by the Mayor or other executive officer.

[b] SEC. 8. Any city containing a population of more than one hundred thousand inhabitants may frame a charter for its own government, consistent with and subject to the Constitution and laws of this State, by causing a Board of fifteen freeholders, who shall have been for at least five years qualified electors thereof, to be elected by the qualified voters of such city, at any general or special election, whose duty it shall be, within ninety days after such election, to prepare and propose a charter for such city, which shall be signed in duplicate

---

* Amended, 1896.

[a] Amended, 1894.

[b] Amended, 1902; new section 8½, 1896; further amended, 1905.

by the members of such Board, or a majority of them, and returned, one copy thereof to the Mayor, or other chief executive officer of such city, and the other to the Recorder of Deeds of the county. Such proposed charter shall then be published in two daily papers of general circulation in such city for at least twenty days, and within not less than thirty days after such publication it shall be submitted to the qualified electors of such city at a general or special election, and if a majority of such qualified electors voting thereat shall ratify the same, it shall thereafter be submitted to the Legislature for its approval or rejection as a whole, without power of alteration or amendment, and if approved by a majority vote of the members elected to each house, it shall become the charter of such city, or if such city be consolidated with a county, then of such city and county, and shall become the organic law thereof, and supersede any existing charter and all amendments thereof, and all special laws inconsistent with such charter. A copy of such charter, certified by the Mayor or chief executive officer, and authenticated by the seal of such city, setting forth the submission of such charter to the electors and its ratification by them, shall be made in duplicate and deposited, one in the office of the Secretary of State, the other, after being recorded in the office of the Recorder of Deeds of the county, among the archives of the city; all Courts shall take judicial notice thereof. The charter so ratified may be amended at intervals of not less than two years, by proposals therefor, submitted by legislative authority of the city to the qualified voters thereof, at a general or special election held at least sixty days after the publication of such proposals, and ratified by at least three fifths of the qualified electors voting thereat, and approved by the Legislature as herein provided for the approval of the charter. In submitting any such charter, or amendment thereto, any alternative article or proposition may be presented for the choice of the voters, and may be voted on separately without prejudice to others. Any city containing a population of more than ten thousand and not more than one hundred thousand inhabitants, may frame a charter for its own government, consistent with and subject to the Constitution and laws of this State, by causing a Board of fifteen freeholders, who shall have been for at least five years qualified electors thereof, to be elected by the qualified voters of said city, at any general or special election, whose duty it shall be, within ninety days after such election, to prepare and propose a charter for such city, which shall be signed in duplicate by the members of such Board, or a majority of them, and returned, one copy thereof to the Mayor, or other chief executive of said city, and the other to the Recorder of the county. Such proposed charter shall then be published in two daily papers of general circulation in such city for at least twenty days; and the first publication shall be made within twenty days after the completion of the charter; and within not less than thirty days after such publication it shall be submitted to the qualified electors of said city, at a general or special election, and if a majority of such qualified electors voting thereat shall ratify the same, it shall thereafter be submitted to the Legislature for its approval or rejection as a whole, without power of alteration or amendment; and if approved by a majority vote of the members elected to each house it shall become the charter of such city, and the organic law thereof, and shall supersede any existing charter, and any amendments thereof, and all special laws inconsistent with such

charter. A copy of such charter, certified by the Mayor or chief executive officer, and authenticated by the seal of such city, setting forth the submission of such charter to the electors, and its ratification by them, shall be made in duplicate, and deposited, one in the office of Secretary of State, and the other, after being recorded in said Recorder's office, shall be deposited in the archives of the city; and thereafter all Courts shall take judicial notice of said charter. The charter so ratified may be amended, at intervals of not less than two years, by proposals therefor, submitted by the legislative authority of the city to the qualified electors thereof, at a general or special election held at least sixty days after the publication of such proposals, and ratified by at least three fifths of the qualified electors voting thereat, and approved by the Legislature as herein provided for the approval of the charter. In submitting any such charter, or amendment thereto, any alternative article or proposition may be presented for the choice of the voters, and may be voted on separately without prejudice to others. [Amendment adopted April 12, 1887.]

Sec. 9. The compensation of any county, city, town, or municipal officer shall not be increased after his election or during his term of office; nor shall the term of any such officer be extended beyond the period for which he is elected or appointed.

Sec. 10. No county, city, town, or other public or municipal corporation, nor the inhabitants thereof, nor the property therein, shall be released or discharged from its or their proportionate share of taxes to be levied for State purposes, nor shall commutation for such taxes be authorized in any form whatsoever.

Sec. 11. Any county, city, town, or township may make and enforce within its limits all such local, police, sanitary, and other regulations as are not in conflict with general laws.

Sec. 12. The Legislature shall have no power to impose taxes upon counties, cities, towns, or other public or municipal corporations, or upon the inhabitants or property thereof, for county, city, town, or other municipal purposes, but may, by general laws, vest in the corporate authorities thereof the power to assess and collect taxes for such purposes.

Sec. 13. The Legislature shall not delegate to any special commission, private corporation, company, association, or individual any power to make, control, appropriate, supervise, or in any way interfere with any county, city, town, or municipal improvement, money, property, or effects, whether held in trust or otherwise, or to levy taxes or assessments, or perform any municipal functions whatever.

* Sec. 14. No State office shall be continued or created in any county, city, town, or other municipality, for the inspection, measurement, or graduation of any merchandise, manufacture, or commodity; but such county, city, town, or municipality may, when authorized by general law, appoint such officers.

Sec. 15. Private property shall not be taken or sold for the payment of the corporate debt of any political or municipal corporation.

Sec. 16. All moneys, assessments, and taxes belonging to or collected for the use of any county, city, town, or other public or municipal corporation, coming into the hands of any officer thereof, shall immediately be deposited with the Treasurer, or other legal deposi-

* Amended, new section 13½, 1905.

tary, to the credit of such city, town, or other corporation respectively, for the benefit of the funds to which they respectively belong.

SEC. 17.* The making of profit out of county, city, town, or other public money, or using the same for any purpose not authorized by law, by any officer having the possession or control thereof, shall be a felony, and shall be prosecuted and punished as prescribed by law.

SEC. 18.[a] No county, city, town, township, Board of Education, or school district shall incur any indebtedness or liability in any manner, or for any purpose, exceeding in any year the income and revenue provided for it for such year, without the assent of two thirds of the qualified electors thereof, voting at an election to be held for that purpose, nor unless, before or at the time of incurring such indebtedness, provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof within twenty years from the time of contracting the same. Any indebtedness or liability incurred contrary to this provision shall be void.

SEC. 19. In any city where there are no public works owned and controlled by the municipality for supplying the same with water or artificial light, any individual, or any company duly incorporated for such purpose under and by authority of the laws of this State, shall, under the direction of the Superintendent of Streets, or other officer in control thereof, and under such general regulations as the municipality may prescribe for damages and indemnity for damages, have the privilege of using the public streets and thoroughfares thereof, and of laying down pipes and conduits therein, and connections therewith, so far as may be necessary for introducing into and supplying such city and its inhabitants either with gaslight or other illuminating light, or with fresh water for domestic and all other purposes, upon the condition that the municipal government shall have the right to regulate the charges thereof. [Amendment adopted November 4, 1884.]

ARTICLE XII

CORPORATIONS

SECTION 1. Corporations may be formed under general laws, but shall not be created by special Act. All laws now in force in this State concerning corporations, and all laws that may be hereafter passed pursuant to this section, may be altered from time to time or repealed.

SEC. 2. Dues from corporations shall be secured by such individual liability of the corporators and other means as may be prescribed by law.

SEC. 3. Each stockholder of a corporation, or joint-stock association, shall be individually and personally liable for such proportion of all its debts and liabilities contracted or incurred, during the time he was a stockholder, as the amount of stock or shares owned by him bears to the whole of the subscribed capital stock or shares of the corporation or association. The directors or trustees of corporations and joint-stock associations shall be jointly and severally liable to

*Amended, new section 16½, 1905.
[a] Amended 1900; further amended 1906.

the creditors and stockholders for all moneys embezzled or misappropropriated by the officers of such corporation or joint-stock association, during the term of such director or trustee.

SEC. 4. The term corporations, as used in this article, shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships, and all corporations shall have the right to sue and shall be subject to be sued, in all Courts, in like cases as natural persons.

SEC. 5. The Legislature shall have no power to pass any Act granting any charter for banking purposes, but corporations or associations may be formed for such purposes under general laws. No corporation, association, or individual shall issue or put into circulation, as money, anything but the lawful money of the United States.

SEC. 6. All existing charters, grants, franchises, special or exclusive privileges, under which an actual and bona fide organization shall not have taken place, and business been commenced in good faith, at the time of the adoption of this Constitution, shall thereafter have no validity.

SEC. 7. The Legislature shall not extend any franchise or charter, nor remit the forfeiture of any franchise or charter, of any corporation now existing, or which shall hereafter exist, under the laws of this State.

SEC. 8. The exercise of the right of eminent domain shall never be so abridged or construed as to prevent the Legislature from taking the property and franchises of incorporated companies and subjecting them to public use the same as the property of individuals, and the exercise of the police power of the State shall never be so abridged or construed as to permit corporations to conduct their business in such manner as to infringe the rights of individuals or the general well-being of the State.

SEC. 9. No corporation shall engage in any business other than that expressly authorized in its charter, or the law under which it may have been or may hereafter be organized; nor shall it hold for a longer period than five years any real estate except such as may be necessary for carrying on its business.

SEC. 10. The Legislature shall not pass any laws permitting the leasing or alienation of any franchise, so as to relieve the franchise or property held thereunder from the liabilities of the lessor or grantor, lessee or grantee, contracted or incurred in the operation, use, or enjoyment of such franchise, or any of its privileges.

SEC. 11. No corporation shall issue stock or bonds, except for money paid, labor done, or property actually received, and all fictitious increase of stock or indebtedness shall be void. The stock and bonded indebtedness of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding the larger amount in value of the stock, at a meeting called for that purpose, giving sixty days' public notice, as may be provided by law.

SEC. 12. In all elections for directors or managers of corporations every stockholder shall have the right to vote, in person or by proxy, the number of shares of stock owned by him, for as many persons as there are directors or managers to be elected, or to cumulate said shares and give one candidate as many votes as the number of

directors multiplied by the number of his shares of stock shall equal, or to distribute them, on the same principle, among as many candidates as he may think fit; and such directors or managers shall not be elected in any other manner, except that members of coöperative societies formed for agricultural, mercantile, and manufacturing purposes may vote on all questions affecting such societies in manner prescribed by law.

Sec. 13. The State shall not, in any manner, loan its credit, nor shall it subscribe to or be interested in the stock of any company, association, or corporation.

Sec. 14. Every corporation, other than religious, educational, or benevolent, organized or doing business in this State, shall have and maintain an office or place in this State for the transaction of its business, where transfers of stock shall be made, and in which shall be kept for inspection, by every person having an interest therein, and legislative committees, books in which shall be recorded the amount of capital stock subscribed, and by whom; the names of the owners of its stock, and the amounts owned by them respectively; the amount of stock paid in, and by whom; the transfers of stock; the amount of its assets and liabilities, and the names and place of residence of its officers.

Sec. 15. No corporation organized outside the limits of this State shall be allowed to transact business within this State on more favorable conditions than are prescribed by law to similar corporations organized under the laws of this State.

Sec. 16. A corporation or association may be sued in the county where the contract is made or is to be performed, or where the obligation or liability arises or the breach occurs; or in the county where the principal place of business of such corporation is situated, subject to the power of the Court to change the place of trial, as in other cases.

Sec. 17. All railroad, canal, and other transportation companies are declared to be common carriers, and subject to legislative control. Any association or corporation, organized for the purpose, under the laws of this State, shall have the right to connect at the State line with railroads of other States. Every railroad company shall have the right with its road to intersect, connect with, or cross any other railroad, and shall receive and transport each the other's passengers, tonnage, and cars, without delay or discrimination.

Sec. 18. No president, director, officer, agent, or employé of any railroad or canal company shall be interested, directly or indirectly, in the furnishing of material or supplies to such company, nor in the business of transportation as a common carrier of freight or passengers over the works owned, leased, controlled, or worked by such company, except such interest in the business of transportation as lawfully flows from the ownership of stock therein.

Sec. 19. No railroad or other transportation company shall grant free passes, or passes or tickets at a discount, to any person holding any office of honor, trust, or profit in this State; and the acceptance of any such pass or ticket by a member of the Legislature or any public officer, other than Railroad Commissioner, shall work a forfeiture of his office.

Sec. 20. No railroad company or other common carrier shall combine or make any contract with the owners of any vessel that leaves

port or makes port in this State, or with any common carrier, by which combination or contract the earnings of one doing the carrying are to be shared by the other not doing the carrying. And whenever a railroad corporation shall, for the purpose of competing with any other common carrier, lower its rates for transportation of passengers or freight from one point to another, such reduced rates shall not be again raised or increased from such standard without the consent of the governmental authority in which shall be vested the power to regulate fares and freights.

SEC. 21. No discrimination in charges or facilities for transportation shall be made by any railroad or other transportation company between places or persons, or in the facilities for the transportation of the same classes of freight or passengers within this State, or coming from or going to any other State. Persons and property transported over any railroad, or by any other transportation company or individual, shall be delivered at any station, landing, or port, at charges not exceeding the charges for the transportation of persons and property of the same class, in the same direction, to any more distant station, port, or landing. Excursion and commutation tickets may be issued at special rates.

SEC. 22. The State will be divided into three districts as nearly equal in population as practicable, in each of which one Railroad Commissioner shall be elected by the qualified electors thereof at the regular gubernatorial elections, whose salary shall be fixed by law, and whose term of office shall be four years, commencing on the first Monday after the first day of January next succeeding their election. Said Commissioners shall be qualified electors of this State and of the district from which they are elected, and shall not be interested in any railroad corporation, or other transportation company, as stockholder, creditor, agent, attorney, or employé; and the act of a majority of said Commissioners shall be deemed the act of said Commission. Said Commissioners shall have the power, and it shall be their duty, to establish rates of charges for the transportation of passengers and freight by railroad or other transportation companies, and publish the same from time to time, with such changes as they may make; to examine the books, records, and papers of all railroad and other transportation companies, and for this purpose they shall have power to issue subpœnas and all other necessary process; to hear and determine complaints against railroad and other transportation companies, to send for persons and papers, to administer oaths, take testimony, and punish for contempt of their orders and processes, in the same manner and to the same extent as Courts of record, and enforce their decisions and correct abuses through the medium of the Courts. Said Commissioners shall prescribe a uniform system of accounts to be kept by all such corporations and companies. Any railroad corporation or transportation company which shall fail or refuse to conform to such rates as shall be established by such Commissioners, or shall charge rates in excess thereof, or shall fail to keep their accounts in accordance with the system prescribed by the Commission, shall be fined not exceeding twenty thousand dollars for each offense; and every officer, agent, or employé of any such corporation or company, who shall demand or receive rates in excess thereof, or who shall in any manner violate the provisions of this section, shall be fined not exceeding five thousand dollars, or be imprisoned in the

county jail not exceeding one year. In all controversies, civil or criminal, the rates of fares and freights established by said Commission shall be deemed conclusively just and reasonable, and in any action against such corporation or company for damages sustained by charging excessive rates, the plaintiff, in addition to the actual damage, may, in the discretion of the Judge or jury, recover exemplary damages. Said Commission shall report to the Governor, annually, their proceedings, and such other facts as may be deemed important. Nothing in this section shall prevent individuals from maintaining actions against any of such companies. The Legislature may, in addition to any penalties herein prescribed, enforce this article by forfeiture of charter or otherwise, and may confer such further powers on the Commissioners as shall be necessary to enable them to perform the duties enjoined on them in this and the foregoing section. The Legislature shall have power, by a two-thirds vote of all the members elected to each house, to remove any one or more of said Commissioners from office, for dereliction of duty, or corruption, or incompetency; and whenever, from any cause, a vacancy in office shall occur in said Commission, the Governor shall fill the same by the appointment of a qualified person thereto, who shall hold office for the residue of the unexpired term, and until his successor shall have been elected and qualified.

SEC. 23. Until the Legislature shall district the State, the following shall be the railroad districts: The First District shall be composed of the Counties of Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Humboldt, Lake, Lassen, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo, and Yuba, from which one Railroad Commissioner shall be elected. The Second District shall be composed of the Counties of Marin, San Francisco, and San Mateo, from which one Railroad Commissioner shall be elected. The Third District shall be composed of the Counties of Alameda, Contra Costa, Fresno, Inyo, Kern, Los Angeles, Mariposa, Merced, Mono, Monterey, San Benito, San Bernardino, San Diego, San Joaquin, San Luis Obispo, Santa Barbara, Santa Clara, Santa Cruz, Stanislaus, Tulare, Tuolumne, and Ventura, from which one Railroad Commissioner shall be elected.

SEC. 24. The Legislature shall pass all laws necessary for the enforcement of the provisions of this article.

ARTICLE XIII

REVENUE AND TAXATION

* SECTION 1. All property in the State, not exempt under the laws of the United States, shall be taxed in proportion to its value, to be ascertained as provided by law. The word "property," as used in this article and section, is hereby declared to include moneys, credits, bonds, stocks, dues, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership; *provided*, that growing crops, property used exclusively for public schools, and such as may belong to the United States, this State, or to any county or

* Amended, 1894; new sections 1½, 1900, 1¾, 1902.

municipal corporation within this State, shall be exempt from taxation. The Legislature may provide, except in case of credits secured by mortgage or trust deed, for a reduction from credits of debts due bona fide residents of this State.

SEC. 2. Land, and the improvements thereon, shall be separately assessed. Cultivated and uncultivated land, of the same quality, and similarly situated, shall be assessed at the same value.

SEC. 3. Every tract of land containing more than six hundred and forty acres, and which has been sectionized by the United States Government, shall be assessed, for the purposes of taxation, by sections or fractions of sections. The Legislature shall provide by law for the assessment, in small tracts, of all lands not sectionized by the United States Government.

SEC. 4. A mortgage, deed of trust, contract, or other obligation by which a debt is secured, shall, for the purposes of assessment and taxation, be deemed and treated as an interest in the property affected thereby. Except as to railroad and other quasi public corporations, in case of debt so secured, the value of the property affected by such mortgage, deed of trust, contract, or obligation, less the value of such security, shall be assessed and taxed to the owner of the property, and the value of such security shall be assessed and taxed to the owner thereof, in the county, city, or district in which the property affected thereby is situate. The taxes so levied shall be a lien upon the property and security, and may be paid by either party to such security; if paid by the owner of the security, the tax so levied upon the property affected thereby shall become a part of the debt so secured; if the owner of the property shall pay the tax so levied on such security, it shall constitute a payment thereon, and to the extent of such payment, a full discharge thereof; *provided*, that if any such security or indebtedness shall be paid by such debtor or debtors, after assessment and before the tax levy, the amount of such levy may likewise be retained by such debtor or debtors, and shall be computed according to the tax levy of the preceding year.

* SEC. 5. Every contract hereafter made, by which a debtor is obligated to pay any tax or assessment on money loaned, or on any mortgage, deed of trust, or other lien, shall, as to any interest specified therein, and as to such tax or assessment, be null and void.

SEC. 6. The power of taxation shall never be surrendered or suspended by any grant or contract to which the State shall be a party.

SEC. 7. The Legislature shall have the power to provide by law for the payment of all taxes on real property by installments.

SEC. 8. The Legislature shall by law require each taxpayer in this State to make and deliver to the County Assessor, annually, a statement, under oath, setting forth specifically all the real and personal property owned by such taxpayer, or in his possession, or under his control, at twelve o'clock meridian on the first Monday of March.

SEC. 9. A State Board of Equalization, consisting of one member from each Congressional District in this State, as the same existed in eighteen hundred and seventy-nine, shall be elected by the qualified electors of their respective districts, at the general election to be held in the year one thousand eight hundred and eighty-six, and at each gubernatorial election thereafter, whose term of office shall be for

* Repealed by amendment, 1906.

four years; whose duty it shall be to equalize the valuation of the taxable property in the several counties of the State for the purposes of taxation. The Controller of State shall be ex officio a member of the Board. The Boards of Supervisors of the several counties of the State shall constitute Boards of Equalization for their respective counties, whose duty it shall be to equalize the valuation of the taxable property in the county for the purpose of taxation; *provided*, such State and County Boards of Equalization are hereby authorized and empowered, under such rules of notice as the County Boards may prescribe as to the action of the State Board, to increase or lower the entire assessment roll, or any assessment contained therein, so as to equalize the assessment of the property contained in said assessment roll, and make the assessment conform to the true value in money of the property contained in said roll; *provided*, that no Board of Equalization shall raise any mortgage, deed of trust, contract, or other obligation by which a debt is secured, money, or solvent credits, above its face value. The present State Board of Equalization shall continue in office until their successors, as herein provided for, shall be elected and shall qualify. The Legislature shall have power to redistrict the State into four districts, as nearly equal in population as practical, and to provide for the elections of members of said Board of Equalization. [Amendment adopted November 4, 1884.]

Sec. 10. All property, except as hereinafter in this section provided, shall be assessed in the county, city, city and county, town, township, or district in which it is situated, in the manner prescribed by law. The franchise, roadway, roadbed, rails, and rolling stock of all railroads operated in more than one county in this State shall be assessed by the State Board of Equalization at their actual value, and the same shall be apportioned to the counties, cities and counties, cities, towns, townships, and districts in which such railroads are located, in proportion to the number of miles of railway laid in such counties, cities and counties, cities, towns, townships, and districts.

Sec. 11. Income taxes may be assessed to and collected from persons, corporations, joint stock associations, or companies resident or doing business in this State, or any one or more of them, in such cases and amounts, and in such manner, as shall be prescribed by law.

Sec. 12. The Legislature shall provide for the levy and collection of an annual poll tax, of not less than two dollars, on every male inhabitant of this State over twenty-one and under sixty years of age, except paupers, idiots, insane persons, and Indians not taxed. Said tax shall be paid into the State School Fund.

Sec. 13. The Legislature shall pass all laws necessary to carry out the provisions of this article.

Article XIV

WATER AND WATER RIGHTS

Section 1. The use of all water now appropriated, or that may hereafter be appropriated, for sale, rental, or distribution, is hereby declared to be a public use, and subject to the regulation and control of the State, in the manner to be prescribed by law; *provided*, that the rates or compensation to be collected by any person, company, or corporation in this State for the use of water supplied to any city and

county, or city, or town, or the inhabitants thereof, shall be fixed, annually, by the Board of Supervisors, or City and County, or City, or Town Council, or other governing body of such city and county, or city, or town, by ordinance or otherwise, in the manner that other ordinances, or legislative acts or resolutions are passed by such body, and shall continue in force for one year and no longer. Such ordinances or resolutions shall be passed in the month of February of each year, and take effect on the first day of July thereafter. Any Board or body failing to pass the necessary ordinances or resolutions fixing water rates, where necessary, within such time, shall be subject to peremptory process to compel action, at the suit of any party interested, and shall be liable to such further processes and penalties as the Legislature may prescribe. Any person, company, or corporation collecting water rates in any city and county, or city, or town in this State, otherwise than as so established, shall forfeit the franchises and waterworks of such person, company, or corporation to the city and county, or city, or town, where the same are collected, for the public use.

SEC. 2. The right to collect rates or compensation for the use of water supplied to any county, city and county, or town, or the inhabitants thereof, is a franchise, and cannot be exercised except by authority of and in the manner prescribed by law.

ARTICLE XV

HARBOR FRONTAGES, ETC

SECTION 1. The right of eminent domain is hereby declared to exist in this State to all frontages on the navigable waters of this State.

SEC. 2. No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, nor to destroy or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof.

SEC. 3. All tide lands within two miles of any incorporated city or town of this State and fronting on the waters of any harbor, estuary, bay, or inlet, used for the purposes of navigation, shall be withheld from grant or sale to private persons, partnerships, or corporations.

ARTICLE XVI

STATE INDEBTEDNESS

SECTION 1. The Legislature shall not, in any manner, create any debt or debts, liability or liabilities, which shall, singly or in the aggregate with any previous debts or liabilities, exceed the sum of three hundred thousand dollars, except in case of war to repel invasion or suppress insurrection, unless the same shall be authorized by law for some single object or work to be distinctly specified therein, which law

shall provide ways and means, exclusive of loans, for the payment of the interest of such debt or liability as it falls due, and also to pay and discharge the principal of such debt or liability within twenty years of the time of the contracting thereof, and shall be irrepealable until the principal and interest thereon shall be paid and discharged; but no such law shall take effect until, at a general election, it shall have been submitted to the people and shall have received a majority of all the votes cast for and against it at such election; and all moneys raised by authority of such law shall be applied only to the specific object therein stated, or to the payment of the debt thereby created, and such law shall be published in at least one newspaper in each county, or city and county, if one be published therein, throughout the State, for three months next preceding the election at which it is submitted to the people. The Legislature may at any time after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same.

Article XVII

LAND AND HOMESTEAD EXEMPTION

Section. 1. The Legislature shall protect, by law, from forced sale, a certain portion of the homestead and other property of all heads of families.

Sec. 2. The holding of large tracts of land, uncultivated and unimproved, by individuals or corporations, is against the public interest, and should be discouraged by all means not inconsistent with the rights of private property.

Sec. 3. Lands belonging to this State, which are suitable for cultivation, shall be granted only to actual settlers, and in quantities not exceeding three hundred and twenty acres to each settler under such conditions as shall be prescribed by law.

Article XVIII

AMENDING AND REVISING THE CONSTITUTION

Section 1. Any amendment or amendments to this Constitution may be proposed in the Senate or Assembly, and if two thirds of all the members elected to each of the two houses shall vote in favor thereof, such proposed amendment or amendments shall be entered in their Journals, with the yeas and nays taken thereon; and it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people in such manner, and at such time, and after such publication as may be deemed expedient. Should more amendments than one be submitted at the same election, they shall be so prepared and distinguished, by numbers or otherwise, that each can be voted on separately. If the people shall approve and ratify such amendment or amendments, or any of them, by a majority of the qualified electors voting thereon, such amendment or amendments shall become a part of this Constitution.

Sec. 2. Whenever two thirds of the members elected to each branch of the Legislature shall deem it necessary to revise this Constitution, they shall recommend to the electors to vote at the next gen-

eral election for or against a Convention for that purpose, and if a majority of the electors voting at such election on the proposition for a Convention shall vote in favor thereof, the Legislature shall, at its next session, provide by law for calling the same. The Convention shall consist of a number of delegates not to exceed that of both branches of the Legislature, who shall be chosen in the same manner, and have the same qualifications, as members of the Legislature. The delegates so elected shall meet within three months after their election, at such place as the Legislature may direct. At a special election to be provided for by law, the Constitution that may be agreed upon by such Convention shall be submitted to the people for their ratification or rejection, in such manner as the Convention may determine. The returns of such election shall, in such manner as the Convention shall direct, be certified to the Executive of the State, who shall call to his assistance the Controller, Treasurer, and Secretary of State, and compare the returns so certified to him; and it shall be the duty of the Executive to declare, by his proclamation, such Constitution as may have been ratified by a majority of all the votes cast at such special election to be the Constitution of the State of California.

Article XIX

CHINESE

Section 1. The Legislature shall prescribe all necessary regulations for the protection of the State, and the counties, cities, and towns thereof, from the burdens and evils arising from the presence of aliens, who are or may become vagrants, paupers, mendicants, criminals, or invalids afflicted with contagious or infectious diseases, and from aliens otherwise dangerous or detrimental to the well-being or peace of the State, and to impose conditions upon which such persons may reside in the State, and provide the means and mode of their removal from the State, upon failure and refusal to comply with such conditions; *provided*, that nothing contained in this section shall be construed to impair or limit the power of the Legislature to pass such police laws or other regulations as it may deem necessary.

Sec. 2. No corporation now existing or hereafter formed under the laws of this State shall, after the adoption of this Constitution, employ, directly or indirectly, in any capacity, any Chinese or Mongolian. The Legislature shall pass such laws as may be necessary to enforce this provision.

Sec. 3. No Chinese shall be employed on any State, county, municipal, or other public work, except in punishment for crime.

Sec. 4. The presence of foreigners ineligible to become citizens of the United States is declared to be dangerous to the well-being of the State, and the Legislature shall discourage their immigration by all the means within its power. Asiatic coolieism is a form of human slavery, and is forever prohibited in this State, and all contracts for coolie labor shall be void. All companies or corporations, whether formed in this country or any foreign country, for the importation of such labor, shall be subject to such penalties as the Legislature may prescribe. The Legislature shall delegate all necessary power to the incorporated cities and towns of this State for the removal of Chinese without the limits of such cities and towns, or for their loca-

tion within prescribed portions of those limits, and it shall also provide the necessary legislation to prohibit the introduction into this State of Chinese after the adoption of the Constitution. This section shall be enforced by appropriate legislation.

Article XX

MISCELLANEOUS SUBJECTS

Section 1. The City of Sacramento is hereby declared to be the seat of government of this State, and shall so remain until changed by law; but no law changing the seat of government shall be valid or binding unless the same be approved and ratified by a majority of the qualified electors of the State voting therefor at a general State election, under such regulations and provisions as the Legislature, by a two-thirds vote of each house, may provide, submitting the question of change to the people.

Sec. 2. Any citizen of this State who shall, after the adoption of this Constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within this State or out of it, or who shall act as second, or knowingly aid or assist in any manner those thus offending, shall not be allowed to hold any office of profit, or to enjoy the right of suffrage under this Constitution.

Sec. 3. Members of the Legislature, and all officers, executive and judicial, except such inferior officers as may be by law exempted, shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm, as the case may be,) that I will support the Constitution of the United States and the Constitution of the State of California, and that I will faithfully discharge the duties of the office of ——— according to the best of my ability."

And no other oath, declaration, or test shall be required as a qualification for any office of public trust.

Sec. 4. All officers or Commissioners whose election or appointment is not provided for by this Constitution, and all officers or Commissioners whose offices or duties may hereafter be created by law, shall be elected by the people, or appointed, as the Legislature may direct.

Sec. 5. The fiscal year shall commence on the first day of July.

Sec. 6. Suits may be brought against the State in such manner and in such Courts as shall be directed by law.

Sec. 7. No contract of marriage, if otherwise duly made, shall be invalidated for want of conformity to the requirements of any religious sect.

Sec. 8. All property, real and personal, owned by either husband or wife, before marriage, and that acquired by either of them afterward by gift, devise, or descent, shall be their separate property.

Sec. 9. No perpetuities shall be allowed except for eleemosynary purposes.

Sec. 10. Every person shall be disqualified from holding any office of profit in this State who shall have been convicted of having given or offered a bribe to procure his election or appointment.

Sec. 11. Laws shall be made to exclude from office, serving on juries, and from the right of suffrage, persons convicted of bribery,

perjury, forgery, malfeasance in office, or other high crimes. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice.

SEC. 12. Absence from the State, on business of the State, or of the United States, shall not affect the question of residence of any person.

SEC. 13. A plurality of the votes given at any election shall constitute a choice, where otherwise not directed in this Constitution.

SEC. 14. The Legislature shall provide, by law, for the maintenance and efficiency of a State Board of Health.

SEC. 15. Mechanics, material-men, artisans, and laborers of every class shall have a lien upon the property upon which they have bestowed labor or furnished material, for the value of such labor done and material furnished; and the Legislature shall provide, by law, for the speedy and efficient enforcement of such liens.

SEC. 16.* When the term of any officer or Commissioner is not provided for in this Constitution, the term of such officer or Commissioner may be declared by law; and if not so declared, such officer or Commissioner shall hold his position as such officer or Commissioner during the pleasure of the authority making the appointment; but in no case shall such term exceed four years.

SEC. 17.[a] Eight hours shall constitute a legal day's work on all public work.

SEC. 18. No person shall, on account of sex, be disqualified from entering upon or pursuing any lawful business, vocation, or profession.

SEC. 19. Nothing in this Constitution shall prevent the Legislature from providing, by law, for the payment of the expenses of the Convention framing this Constitution, including the per diem of the delegates for the full term thereof.

SEC. 20. Elections of the officers provided for by this Constitution, except at the election in the year eighteen hundred and seventy-nine, shall be held on the even numbered years next before the expiration of their respective terms. The terms of such officers shall commence on the first Monday after the first day of January next following their election.

ARTICLE XXI

BOUNDARY

SECTION 1. The boundary of the State of California shall be as follows: Commencing at the point of intersection of the forty-second degree of north latitude with the one hundred and twentieth degree of longitude west from Greenwich, and running south on the line of said one hundred and twentieth degree of west longitude until it intersects the thirty-ninth degree of north latitude; thence running in a straight line, in a southeasterly direction to the River Colorado, at a point where it intersects the thirty-fifth degree of north latitude; thence down the middle of the channel of said river to the boundary line between the United States and Mexico, as established by the treaty of May thirtieth, one thousand eight hundred and forty-eight; thence running west and along said boundary line to the Pacific

*Amended, 1905. [a]Amended, 1902.

Ocean, and extending therein three English miles; thence running in a northwesterly direction and following the direction of the Pacific Coast to the forty-second degree of north latitude; thence on the line of said forty-second degree of north latitude to the place of beginning. Also including all the islands, harbors, and bays along and adjacent to the coast.

Article XXII

SCHEDULE

That no inconvenience may arise from the alterations and amendments in the Constitution of this State, and to carry the same into complete effect, it is hereby ordered and declared:

Section 1. That all laws in force at the adoption of this Constitution, not inconsistent therewith, shall remain in full force and effect until altered or repealed by the Legislature; and all rights, actions, prosecutions, claims, and contracts of the State, counties, individuals, bodies corporate, not inconsistent therewith, shall continue to be as valid as if this Constitution had not been adopted. The provisions of all laws which are inconsistent with this Constitution shall cease upon the adoption thereof, except that all laws which are inconsistent with such provisions of this Constitution as require legislation to enforce them shall remain in full force until the first day of July, eighteen hundred and eighty, unless sooner altered or repealed by the Legislature.

Sec. 2. That all recognizances, obligations, and all other instruments entered into or executed before the adoption of this Constitution, to this State, or to any subdivision thereof, or any municipality therein, and all fines, taxes, penalties, and forfeitures due or owing to this State, or any subdivision or municipality thereof, and all writs, prosecutions, actions, and causes of action, except as herein otherwise provided, shall continue and remain unaffected by the adoption of this Constitution. All indictments or informations which shall have been found, or may hereafter be found, for any crime or offense committed before this Constitution takes effect, may be proceeded upon as if no change had taken place, except as otherwise provided in this Constitution.

Sec. 3. All Courts now existing, save Justices' and Police Courts, are hereby abolished; and all records, books, papers, and proceedings from such Courts, as are abolished by this Constitution, shall be transferred, on the first day of January, eighteen hundred and eighty, to the Courts provided for in this Constitution; and the Courts to which the same are thus transferred shall have the same power and jurisdiction over them as if they had been in the first instance commenced, filed, or lodged therein.

Sec. 4. The Superintendent of Printing of the State of California shall, at least thirty days before the first Wednesday in May, A. D. eighteen hundred and seventy-nine, cause to be printed at the State Printing Office, in pamphlet form, simply stitched, as many copies of this Constitution as there are registered voters in this State, and mail one copy thereof to the Post Office address of each registered voter; *provided*, any copies not called for ten days after reaching their delivery office, shall be subject to general distribution by the several

Postmasters of this State. The Governor shall issue his proclamation, giving notice of the election for the adoption or rejection of this Constitution, at least thirty days before the said first Wednesday of May, eighteen hundred and seventy-nine, and the Board of Supervisors of the several counties shall cause said proclamation to be made public in their respective counties, and general notice of said election to be given at least fifteen days before said election.

SEC. 5. The Superintendent of Printing of the State of California shall, at least twenty days before said election, cause to be printed and delivered to the Clerk of each county in this State five times the number of properly prepared ballots for said election that there are voters in said respective counties, with the words printed thereon: "For the New Constitution." He shall likewise cause to be so printed and delivered to said Clerks five times the number of properly prepared ballots for said election that there are voters in said respective counties, with the words printed thereon: "Against the New Constitution." The Secretary of State is hereby authorized and required to furnish the Superintendent of State Printing a sufficient quantity of legal ballot paper, now on hand, to carry out the provisions of this section.

SEC. 6. The Clerks of the several counties in the State shall, at least five days before said election, cause to be delivered to the Inspectors of Election, at each election precinct or polling place in their respective counties, suitable registers, poll books, forms of return, and an equal number of the aforesaid ballots, which number, in the aggregate, must be ten times greater than the number of voters in the said election precincts or polling places. The returns of the number of votes cast at the Presidential election in the year eighteen hundred and seventy-six shall serve as a basis of calculation for this and the preceding section; *provided*, that the duties in this and the preceding section imposed upon the Clerks of the respective counties shall, in the City and County of San Francisco, be performed by the Registrar of Voters for said city and county.

SEC. 7. Every citizen of the United States, entitled by law to vote for members of the Assembly in this State, shall be entitled to vote for the adoption or rejection of this Constitution.

SEC. 8. The officers of the several counties of this State, whose duty it is, under the law, to receive and canvass the returns from the several precincts of their respective counties, as well as of the City and County of San Francisco, shall meet at the usual place of meeting for such purposes on the first Monday after said election. If, at the time of meeting, the returns from each precinct in the county in which the polls were opened have been received, the Board must then and there proceed to canvass the returns; but if all the returns have not been received, the canvass must be postponed from time to time until all the returns are received, or until the second Monday after said election, when they shall proceed to make out returns of the votes cast for and against the new Constitution; and the proceedings of said Board shall be the same as those prescribed for like Boards in the case of an election for Governor. Upon the completion of said canvass and returns, the said Board shall immediately certify the same, in the usual form, to the Governor of the State of California.

SEC. 9. The Governor of the State of California shall, as soon as the returns of said election shall be received by him, or within thirty days after said election, in the presence and with the assistance of the Controller, Treasurer, and Secretary of State, open and compute all the returns received of votes cast for and against the new Constitution. If, by such examination and computation, it is ascertained that a majority of the whole number of votes cast at such election is in favor of such new Constitution, the Executive of this State shall, by his proclamation, declare such new Constitution to be the Constitution of the State of California, and that it shall take effect and be in force on the days hereinafter specified.

SEC. 10. In order that future elections in this State shall conform to the requirements of the Constitution, the terms of all officers elected at the first election under the same shall be, respectively, one year shorter than the terms as fixed by law or by this Constitution; and the successors of all such officers shall be elected at the last election before the expiration of the terms as in this section provided. The first officers chosen, after the adoption of this Constitution, shall be elected at the time and in the manner now provided by law. Judicial officers and the Superintendent of Public Instruction shall be elected at the same time and in the manner that State officers are elected.

SEC. 11. All laws relative to the present judicial system of the State shall be applicable to the judicial system created by this Constitution until changed by legislation.

SEC. 12. This Constitution shall take effect and be in force on and after the fourth day of July, eighteen hundred and seventy-nine, at twelve o'clock meridian, so far as the same relates to the election of all officers, the commencement of their terms of office, and the meeting of the Legislature. In all other respects, and for all other purposes, this Constitution shall take effect on the first day of January, eighteen hundred and eighty, at twelve o'clock meridian.

J. P. HOGE, *President.*

Attest:

EDWIN F. SMITH, *Secretary.*

AMENDMENTS

(Article I, section 17, 1894)

RIGHTS OF FOREIGNERS

SEC. 17. Foreigners of the white race, or of African descent, eligible to become citizens of the United States under the naturalization laws thereof, while bona fide residents of this State, shall have the same rights in respect to the acquisition, possession, enjoyment, transmission, and inheritance of all property, other than real estate, as native-born citizens; *provided*, that such aliens owning real estate at the time of the adoption of this amendment may remain such owners; *and provided further*, that the Legislature may, by statute, provide for the disposition of real estate which shall hereafter be acquired by such aliens by descent or devise. [Amendment adopted November 6, 1894.]

(Article II, section 1, 1894)

SECTION 1. Every native male citizen of the United States, every male person who shall have acquired the rights of citizenship under or by virtue of the treaty of Querétaro, and every male naturalized citizen thereof, who shall have become such ninety days prior to any election, of the age of twenty-one years, who shall have been resident of the State one year next preceding the election, and of the county in which he claims his vote ninety days, and in the election precinct thirty days, shall be entitled to vote at all elections which are now or may hereafter be authorized by law; *provided*, no native of China, no idiot, no insane person, no person convicted of any infamous crime, no person hereafter convicted of the embezzlement or misappropriation of pubilc money, and no person who shall not be able to read the Constitution in the English language and write his name, shall ever exercise the privilege of an elector in this State; *provided*, that the provisions of this amendment relative to an educational qualification shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any person who shall be sixty years of age and upwards at the time this amendment shall take effect. [Amendment adopted November 6, 1894.]

(Article II, section 2¼, 1900)

PRIMARY ELECTIONS

SEC. 2¼. The Legislature shall have the power to enact laws relative to the election of delegates to conventions of political parties at elections known and designated as primary elections. Also to determine the tests and conditions upon which electors, political parties, or organizations of voters, may participate in any such primary election, which tests or conditions may be different from the tests and conditions required and permitted at other elections authorized by law; or the Legislature may delegate the power to determine such tests or conditions, at primary elections, to the various political parties participating therein. It shall also be lawful for the Legislature to prescribe that any such primary election law shall be obligatory and mandatory in any city, or any city and county, or in any county, or in any political subdivision, of a designated population, and that such law shall be optional in any city, city and county, county, or political subdivision of a lesser population, and for such purpose such law may declare the population of any city, city and county, county, or political subdivision, and may also provide what, if any, compensation primary election officers in defined places or political subdivisions may receive, without making compensation either general or uniform. [Amendment adopted November 6, 1900.]

(Article II, section 5, 1896; section 6, 1902)

ELECTIONS TO BE BY BALLOT OR OTHERWISE

SEC. 5. All elections by the people shall be by ballot or by such other method as may be prescribed by law; *provided*, that secrecy in voting be preserved. [Amendment adopted November 3, 1896.]

VOTING MACHINES

SEC. 6. The inhibitions of this Constitution to the contrary notwithstanding, the Legislature shall have power to provide that in different parts of the State different methods may be employed for receiving and registering the will of the people as expressed at elections, and may provide that mechanical devices may be used within designated subdivisions of the State at the option of the local authority indicated by the Legislature for that purpose. [New section; amendment adopted November 4, 1902.]

(Article IV, section 25½, 1902)

FISH AND GAME DISTRICTS

SEC. 25½. The Legislature may provide for the division of the State into fish and game districts, and may enact such laws for the protection of fish and game therein as it may deem appropriate to the respective districts. [New section; amendment adopted November 4, 1902.]

(Article IV, section 36, 1902)

ESTABLISH SYSTEM OF HIGHWAYS

SEC. 36. The Legislature shall have power to establish a system of State highways or to declare any road a State highway, and to pass all laws necessary or proper to construct and maintain the same, and to extend aid for the construction and maintenance in whole or in part of any county highway. [New section; amendment adopted November 4, 1902.]

(Article V, section 15, 1898)

LIEUTENANT-GOVERNOR, QUALIFICATIONS AND DUTIES

SEC. 15. A Lieutenant-Governor shall be elected at the same time and place, and in the same manner, as the Governor, and his term of office and his qualifications shall be the same. He shall be president of the Senate, but shall only have a casting vote therein. [Amendment adopted November 8, 1898.]

(Article V, section 16, 1898)

LIEUTENANT-GOVERNOR MAY BECOME GOVERNOR, WHEN

SEC. 16. In case of the impeachment of the Governor, or his removal from office, death, inability to discharge the powers and duties of his office, resignation, or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant-Governor for the residue of the term, or until the disability shall cease. And should the Lieutenant-Governor be impeached, displaced, resign, die, or become incapable of performing the duties of his office, or be absent from the State, the president pro tempore of the Senate shall act as Governor until the vacancy in the office of Governor shall be filled at the next general election when members of the Legislature shall be chosen, or until such disability of the Lieutenant-Governor shall cease. In case of a vacancy in the office of Governor for any of the reasons above

named, and neither the Lieutenant-Governor nor the president pro tempore of the Senate succeed to the powers and duties of Governor, then the powers and duties of such office shall devolve upon the Speaker of the Assembly, until the office of Governor shall be filled at such general election. [Amendment adopted November 8, 1898.]

(Article VI, section 17, 1905)

SEC. 17. The justices of the supreme court and of the district courts of appeal, and the judges of the superior courts, shall severally, at stated times during their continuance in office, receive for their service such compensation as is or shall be provided by law. The salaries of the judges of the superior court, in all counties having but one judge, and in all counties in which the terms of the judges of the superior court expire at the same time, shall not hereafter be increased or diminished after their election, nor during the term for which they shall have been elected. Upon the adoption of this amendment the salaries then established by law shall be paid uniformly to the justices and judges then in office. The salaries of the justices of the supreme court and of the district courts of appeal shall be paid by the state. One half of the salary of each superior court judge shall be paid by the state; and the other half thereof shall be paid by the county for which he is elected. On and after the first day of January, A. D. one thousand nine hundred and seven the justices of the supreme court shall each receive an annual salary of eight thousand dollars, and the justices of the several district courts of appeal shall each receive an annual salary of seven thousand dollars; the said salaries to be payable monthly.

(Article IX, sections 10 and 11, 1900)

LELAND STANFORD JUNIOR UNIVERSITY

SEC. 10. The trusts and estates created for the founding, endowment, and maintenance of the Leland Stanford Junior University, under and in accordance with "An Act to advance learning, etc.," approved March ninth, eighteen hundred and eighty-five, by the endowment grant executed by Leland Stanford and Jane Lathrop Stanford on the eleventh day of November, A. D. eighteen hundred and eighty-five, and recorded in liber eighty-three of deeds, at page twenty-three, *et seq.*, records of Santa Clara County, and by the amendments of such grant, and by gifts, grants, bequests and devises supplementary thereto, and by confirmatory grants, are permitted, approved, and confirmed. The board of trustees of the Leland Stanford Junior University, as such, or in the name of the institution, or by other intelligible designation of the trustees or of the institution, may receive property, real or personal, and wherever situated, by gift, grant, devise, or bequest, for the benefit of the institution, or of any department thereof, and such property, unless otherwise provided, shall be held by the trustees of the Leland Stanford Junior University upon the trusts provided for in the grant founding the university, and amendments thereof, and grants, bequests, and devises supplementary thereto. The Legislature, by special Act, may grant to the trustees of the Leland Stanford Junior University corporate powers and privileges, but it shall not thereby alter their tenure or limit their powers or obligations as trustees. All property

now or hereafter held in trust for the founding, maintenance or benefit of the Leland Stanford Junior University, or of any department thereof, may be exempted by special Act from State taxation, and all personal property so held, the Palo Alto farm as described in the endowment grant to the trustees of the university, and all other real property so held and used by the university for educational purposes exclusively, may be similarly exempted from county and municipal taxation; *provided*, that residents of California shall be charged no fees for tuition unless such fees be authorized by Act of the Legislature. [Amendment adopted November 6, 1900.]

CALIFORNIA SCHOOL OF MECHANICAL ARTS

SEC. 11. All property now or hereafter belonging to "The California School of Mechanical Arts," an institution founded and endowed by the late James Lick to educate males and females in the practical arts of life, and incorporated under the laws of the State of California, November twenty-third, eighteen hundred and eighty-five, having its school buildings located in the City and County of San Francisco, shall be exempt from taxation. The trustees of said institution must annually report their proceedings and financial accounts to the Governor. The Legislature may modify, suspend, and revive at will the exemption from taxation herein given. [Amendment adopted November 6, 1900.]

(Article IX, section 6, 1902)

PUBLIC SCHOOL SYSTEM, AND TAX

SEC. 6. The public school system shall include primary and grammar schools, and such high schools, evening schools, normal schools, and technical schools as may be established by the Legislature, or by municipal or district authority. The entire revenue derived from the State School Fund and from the general State school tax shall be applied exclusively to the support of primary and grammar schools; but the Legislature may authorize and cause to be levied a special State school tax for the support of high schools and technical schools, or either of such schools, included in the public school system, and all revenue derived from such special tax shall be applied exclusively to the support of the schools for which such special tax shall be levied. [Amendment adopted November 4, 1902.]

(Article IX, section 7, 1894)

STATE BOARD OF EDUCATION—TEXT-BOOKS—COUNTY BOARDS OF EDUCATION

SEC. 7. The Governor, the Superintendent of Public Instruction, the President of the University of California, and the professor of pedagogy therein, and the principals of the State normal schools shall constitute the State Board of Education, and shall compile, or cause to be compiled, and adopt a uniform series of text-books for use in the common schools throughout the State. The State Board may cause such text-books, when adopted, to be printed and published by the Superintendent of State Printing, at the State Printing Office,

and, when so printed and published, to be distributed and sold at the cost price of printing, publishing, and distributing the same. The text-books so adopted shall continue in use not less than four years; and said State Board shall perform such other duties as may be prescribed by law. The Legislature shall provide for a Board of Education in each county in the State. The County Superintendents and the County Boards of Education shall have control of the examination of teachers and the granting of teachers' certificates within their respective jurisdictions. [Amendment adopted November 6, 1894.]

(Article IX, section 13, 1905)

SEC. 13. All property now or hereafter belonging to the Cogswell Polytechnical College, an institution for the advancement of learning, incorporated under the laws of the State of California, and having its buildings located in the city and county of San Francisco, shall be exempt from taxation. The trustees of said institution must annually report their proceedings and financial accounts to the governor. The legislature may modify, suspend, and revive at will the exemption from taxation herein given.

(Article XI, section 3, 1894)

NEW COUNTIES

SEC. 3. The Legislature, by general and uniform laws, may provide for the formation of new counties; *provided*, *however*, that no new county shall be established which shall reduce any county to a population of less than eight thousand; nor shall a new county be formed containing a less population than five thousand; nor shall any line thereof pass within five miles of the county seat of any county proposed to be divided. Every county which shall be enlarged or created from territory taken from any other county or counties, shall be liable for a just proportion of the existing debts and liabilities of the county or counties from which such territory shall be taken. [Amendment adopted November 6, 1894.]

(Article XI, section 6, 1896; section 7, 1894; section 8, 1902; section 8½, 1896)

MUNICIPAL CORPORATIONS

SEC. 6. Corporations for municipal purposes shall not be created by special laws; but the Legislature, by general laws, shall provide for the incorporation, organization, and classification, in proportion to population, of cities and towns, which laws may be altered, amended, or repealed. Cities and towns heretofore organized or incorporated may become organized under such general laws whenever a majority of the electors voting at a general election shall so determine, and shall organize in conformity therewith; and cities and towns heretofore or hereafter organized, and all charters thereof framed or adopted by authority of this Constitution, except in municipal affairs, shall be subject to and controlled by general laws. [Amendment adopted November 3, 1896.]

CONSOLIDATION OF CITY AND COUNTY GOVERNMENTS

SEC. 7. City and county governments may be merged and consolidated into one municipal government, with one set of officers, and may be incorporated under general laws providing for the incorporation and organization of corporations for municipal purposes. The provisions of this Constitution applicable to cities, and also those applicable to counties, so far as not inconsistent or prohibited to cities, shall be applicable to such consolidated government. [Amendment adopted November 6, 1894.]

CHARTERS OF CITIES

SEC. 8. Any city containing a population of more than three thousand five hundred inhabitants may frame a charter for its own government, consistent with and subject to the Constitution and laws of this State, by causing a board of fifteen freeholders, who shall have been for at least five years qualified electors thereof, to be elected by the qualified voters of said city at any general or special election, whose duty it shall be, within ninety days after such election, to prepare and propose a charter for such city, which shall be signed in duplicate by the members of such board, or a majority of them, and returned, one copy to the Mayor thereof, or other chief executive officer of such city, and the other to the Recorder of the county. Such proposed charter shall then be published in two daily newspapers of general circulation in such city, for at least twenty days, and the first publication shall be made within twenty days after the completion of the charter; *provided*, that in cities containing a population of not more than ten thousand inhabitants, such proposed charter shall be published in one such daily newspaper; and within not less than thirty days after such publication it shall be submitted to the qualified electors of said city at a general or special election, and if a majority of such qualified electors voting thereon shall ratify the same, it shall thereafter be submitted to the Legislature for its approval or rejection as a whole, without power of alteration or amendment. Such approval may be made by concurrent resolution, and if approved by a majority vote of the members elected to each house, it shall become the charter of such city, or if such city be consolidated with a county, then of such city and county, and shall become the organic law thereof, and supersede any existing charter and all amendments thereof, and all laws inconsistent with such charter. A copy of such charter, certified by the Mayor, or chief executive officer, and authenticated by the seal of such city, setting forth the submission of such charter to the electors, and its ratification by them, shall, after the approval of such charter by the Legislature, be made in duplicate, and deposited, one in the office of the Secretary of State, and the other, after being recorded in said Recorder's office, shall be deposited in the archives of the city, and thereafter all courts shall take judicial notice of said charter. The charter, so ratified, may be amended at intervals of not less than two years by proposals therefor, submitted by the legislative authority of the city to the qualified electors thereof at a general or special election, held at least forty days after the publication of such proposals for twenty days in a daily newspaper of general circulation in such city, and ratified by a majority of the electors

voting thereon, and approved by the Legislature as herein provided for the approval of the charter. Whenever fifteen per cent of the qualified voters of the city shall petition the legislative authority thereof to submit any proposed amendment or amendments to said charter to the qualified voters thereof for approval, the legislative authority thereof must submit the same. In submitting any such charter, or amendments thereto, any alternative article or proposition may be presented for the choice of the voters, and may be voted on separately without prejudice to others. [Amendment adopted November 4, 1902.]

CHARTERS OF CITIES, MAY PROVIDE WHAT

SEC. 8½. It shall be competent, in all charters framed under the authority given by section eight of article eleven of this Constitution, to provide, in addition to those provisions allowable by this Constitution and by the laws of the State, as follows:

1. For the constitution, regulation, government, and jurisdiction of Police Courts, and for the manner in which, the times at which, and the terms for which the judges of such courts shall be elected or appointed, and for the compensation of said judges and of their clerks and attachés.

2. For the manner in which, the times at which, and the terms for which the members of boards of education shall be elected or appointed, and the number which shall constitute any one of such boards.

3. For the manner in which, the times at which, and the terms for which the members of the boards of police commissioners shall be elected or appointed; and for the constitution, regulation, compensation, and government of such boards and of the municipal police force.

4. For the manner in which, the times at which, and the terms for which the members of all boards of election shall be elected or appointed, and for the constitution, regulation, compensation, and government of such boards, and of their clerks and attachés; and for all expenses incident to the holding of any election.

Where a city and county government has been merged and consolidated into one municipal government, it shall also be competent in any charter framed under said section eight of said article eleven, to provide for the manner in which, the times at which, and the terms for which the several county officers shall be elected or appointed, for their compensation, and for the number of deputies that each shall have, and for the compensation payable to each of such deputies. [Amendment adopted November 3, 1896.]

(Article XI, section 8, 1905)

SEC. 8. Any city containing a population of more than three thousand five hundred inhabitants may frame a charter for its own government, consistent with and subject to the Constitution, (or, having framed such a charter, may frame a new one), by causing a board of fifteen freeholders, who shall have been for at least five years qualified electors thereof, to be elected by the qualified voters of said city at any general or special election, whose duty it shall be, within

ninety days after such election, to prepare and propose a charter for such city, which shall be signed in duplicate by the members of such board, or a majority of them, and returned, one copy to the mayor thereof, or other chief executive officer of such city, and the other to the recorder of the county. Such proposed charter shall then be published in two daily newspapers of general circulation in such city, for at least twenty days, and the first publication shall be made within twenty days after the completion of the charter; *provided*, that in cities containing a population of not more than ten thousand inhabitants, such proposed charter shall be published in one such daily newspaper; and within thirty days after such publication it shall be submitted to the qualified electors of said city at a general or special election, and if a majority of such qualified electors voting thereon shall ratify the same, it shall thereafter be submitted to the legislature for its approval or rejection as a whole, without power of alteration or amendment. Such approval may be made by concurrent resolution, and if approved by a majority vote of the members elected to each house, it shall become the charter of such city, or, if such city be consolidated with a county, then of such city and county, and shall become the organic law thereof, and supersede any existing charter, (whether framed under the provisions of this section of the Constitution or not,) and all amendments thereof, and all laws inconsistent with such charter. A copy of such charter, certified by the mayor, or chief executive officer, and authenticated by the seal of such city, setting forth the submission of such charter to the electors, and its ratification by them, shall after the approval of such charter by the legislature, be made in duplicate, and deposited, one in the office of the secretary of state, and the other, after being recorded in said recorder's office shall be deposited in the archives of the city, and thereafter all courts shall take judicial notice of said charter. The charter, so ratified, may be amended at intervals of not less than two years by proposals therefor, submitted by the legislative authority of the city to the qualified electors thereof at a general or special election, held at least forty days after the publication of such proposals for twenty days in a daily newspaper of general circulation in such city, and ratified by a majority of the electors voting thereon, and approved by the legislature as herein provided for the approval of the charter. Whenever fifteen per cent of the qualified voters of the city shall petition the legislative authority thereof to submit any proposed amendment or amendments to said charter to the qualified voters thereof for approval, the legislative authority thereof must submit the same. In submitting any such charter, or amendments thereto, any alternative article or proposition may be presented for the choice of the voters, and may be voted on separately without prejudice to others.

(Article XI, section 13½, 1905)

SEC. 13½. Nothing in this Constitution contained shall be construed as prohibiting the state or any county, city and county, city, town, municipality, or other public corporation, issuing bonds under the laws of the state, to make said bonds payable at any place within the United States designated in said bonds.

(Article XI, section 16½, 1905)

SEC. 16½. All moneys belonging to the state, or to any county or municipality within this state, may be deposited in any national bank or banks within this state, or in any bank or banks organized under the laws of this state, in such manner and under such conditions as may be provided by law; *provided*, that such bank or banks in which such moneys are deposited shall furnish as security for such deposits, bonds of the United States, or of this state or of any county, municipality or school district within this state, to be approved by the officer or officers designated by law, to an amount in value of at least ten per cent in excess of the amount of such deposit; *and provided*, that such bank or banks shall pay a reasonable rate of interest, not less than two per cent per annum on the daily balances therein deposited, *and provided*, that no deposit shall at any one time exceed fifty per cent of the paid-up capital stock of such depository bank or banks, *and provided further*, that no officer shall deposit at one time more than twenty per cent of such public moneys available for deposit in any bank while there are other qualified banks requesting such deposits.

(Article XI, section 18, 1900)

ANNUAL DEBT NOT TO EXCEED ANNUAL INCOME

SEC. 18. No county, city, town, township, board of education, or school districts, shall incur any indebtedness or liability in any manner or for any purpose exceeding in any year the income and revenue provided for such year, without the assent of two thirds of the qualified electors thereof, voting at an election to be held for that purpose, nor unless before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also provision to constitute a sinking fund for the payment of the principal thereof on or before maturity, which shall not exceed forty years from the time of contracting the same; *provided*, *however*, that the City and County of San Francisco may at any time pay the unpaid claims, with interest thereon at the rate of five per cent per annum, for materials furnished to and work done for said city and county during the forty-first, forty-second, forty-third, forty-fourth, and fiftieth fiscal years, and for unpaid teachers' salaries for the fiftieth fiscal year, out of the income and revenue of any succeeding year or years, the amount to be paid in full of said claims not to exceed in the aggregate the sum of five hundred thousand dollars, and that no statute of limitations shall apply in any manner to these claims; *and provided further*, that the City of Vallejo, of Solano County, may pay its existing indebtedness incurred in the construction of its waterworks whenever two thirds of the electors thereof voting at an election held for that purpose shall so decide, and that no statute of limitations shall apply in any manner. Any indebtedness or liability incurred contrary to this provision, with the exceptions hereinbefore recited, shall be void. [Amendment adopted November 6, 1900.]

(Article XI, section 18, 1906)

(The following added to the section:)

The city and county of San Francisco, the city of San José and the town of Santa Clara may make provision for a sinking fund, to pay the principal of any indebtedness incurred, or to be hereafter incurred, by it, to commence at a time after the incurring of such indebtedness of not more than a period of one fourth of the time of maturity of such indebtedness, which shall not exceed seventy-five years from the time of contracting the same. Any indebtedness incurred contrary to any provision of this section shall be void.

(Article XIII, section 1, 1894; section 1½, 1900; section 1¾, 1902; section 12¾, 1894)

PROPERTY TO BE TAXED ACCORDING TO VALUE—EXEMPTIONS

SECTION 1. All property in the State, not exempt under the laws of the United States, shall be taxed in proportion to its value, to be ascertained as provided by law. The word "property," as used in this article and section, is hereby declared to include moneys, credits, bonds, stocks, dues, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership; *provided*, that property used for free public libraries and free museums, growing crops, property used exclusively for public schools, and such as may belong to the United States, this State, or to any county or municipal corporation within this State, shall be exempt from taxation. The Legislature may provide, except in case of credits secured by mortgage or trust deed, for a deduction from credits of debts due to bona fide residents of this State. [Amendment adopted November 6, 1894.]

CHURCHES EXEMPT FROM TAXATION

SEC. 1½. All buildings, and so much of the real property on which they are situated as may be required for the convenient use and occupation of said buildings, when the same are used solely and exclusively for religious worship, shall be free from taxation; *provided*, that no building so used which may be rented for religious purposes and rent received by the owner therefor, shall be exempt from taxation. [Amendment adopted November 6, 1900.]

STATE, COUNTY, AND CITY BONDS EXEMPT FROM TAXATION

SEC. 1¾. All bonds hereafter issued by the State of California, or by any county, city and county, municipal corporation, or district (including school, reclamation, and irrigation districts) within said State, shall be free and exempt from taxation. [New section; amendment adopted November 4, 1902.]

FRUIT AND NUT-BEARING TREES EXEMPT FROM TAXATION

SEC. 12¾. Fruit and nut-bearing trees under the age of four years from the time of planting in orchard form, and grapevines under the age of three years from the time of planting in vineyard form, shall be exempt from taxation, and nothing in this article shall be construed as subjecting such trees and grapevines to taxation. [Amendment adopted November 6, 1894.]

(Article XIII, section 5 (repealed), 1906)

Article thirteen of the Constitution of the State of California is hereby amended by striking therefrom and repealing section five thereof, which section reads as follows:

"SEC. 5. Every contract hereafter made, by which a debtor is obligated to pay any tax or assessment on money loaned, or on any mortgage, deed of trust, or other lien, shall, as to any interest specified therein, and as to such tax or assessment, be null and void."

(Article XX, section 16, 1905)

SEC. 16. When the term of any officer or commissioner is not provided for in this Constitution, the term of such officer or commissioner may be declared by law; and, if not so declared, such officer or commissioner shall hold his position as such officer or commissioner during the pleasure of the authority making the appointment; but in no case shall such term exceed four years; *provided*, *however*, that in the case of any officer or employé of any municipality governed under a legally adopted charter, the provisions of such charter with reference to the tenure of office or the dismissal from office of any such officer or employé shall control.

(Article XX, section 17, 1902)

HOURS OF LABOR

SEC. 17. The time of service of all laborers or workmen or mechanics employed upon any public works of the State of California, or of any county, city and county, city, town, district, township, or any other political subdivision thereof, whether said work is done by contract or otherwise, shall be limited and restricted to eight hours in any one calendar day, except in cases of extraordinary emergency caused by fire, flood, or danger to life and property, or except to work upon public, military, or naval works or defenses in time of war, and the Legislature shall provide by law that a stipulation to this effect shall be incorporated in all contracts for public work, and prescribe proper penalties for the speedy and efficient enforcement of said law. [Amendment adopted November 4, 1902.]

COLORADO.[a]

For organic acts issued before 1861 relating to the land now included within Colorado see, in this work:

Treaty Ceding Louisiana, 1803 (Louisiana, p. 1359).
Government of the Indian Country, 1834 (Indian Territory, p. 1097).
Convention between United States and Texas, 1838 (Texas, p. 3543).
Organic Acts of Mexico and Texas, 1824–1845 (Texas, pp. 3475–3547).
Treaty of Guadalupe Hidalgo, 1848 (California, p. 377).
Territory of New Mexico, 1850 (New Mexico, p. 2615).
Territory of Utah, 1850 (Utah, p. 3687).
Territories of Kansas and Nebraska, 1854 (Kansas, p. 1161).

TERRITORIAL GOVERNMENT OF COLORADO—1861[b]

[Thirty-Sixth Congress, Second Session]

An Act to provide a temporary government for the Territory of Colorado

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all that part of the territory of the United States included within the following limits, viz.: Commencing on the thirty-seventh parallel of north latitude, where the twenty-fifth meridian of longitude west from Washington crosses the same; thence north on said meridian to the forty-

[a] The area of the State of Colorado was ceded to the United States by France, the State of Texas, and Mexico. The northeast portion of the State, bounded north and south by the forty-first and forty-second parallels, east by the twenty-fifth meridian, and west by the Rocky Mountains, ceded by France, was a part of the original Territory of Nebraska, and was transferred to the Territory of Colorado. The eastern portion of the State, bounded north by the fortieth parallel, east by the twenty-fifth meridian, south by the Arkansas River westward to the Twenty-sixth meridian, and west by the Rocky Mountains, ceded by France, was a part of the original Territory of Kansas, and was transferred to the Territory of Colorado. The southeastern portion of the State, bounded on the north by the Arkansas River, east by the Twenty-fifth meridian, south by the thirty-seventh parallel, and west by the twenty-sixth meridian, ceded by the State of Texas and by Mexico, was transferred from the original Territory of Kansas to the Territory of Colorado. The southern portion of the State, bounded on the north and south by the thirty-eighth and thirty-seventh parallels, east by the twenty-sixth meridian, and west by the Rocky Mountains, ceded by the State of Texas and Mexico, was transferred from the Territory of New Mexico to the Territory of Colorado. The western portion of the State, bounded north and south by the forty-first and forty-second parallels, east by the Rocky Mountains, and west by the thirty-second meridian, ceded by Mexico, was transferred from the Territory of Utah to the Territory of Colorado.

[b] For other statutes of an organic nature relating to Colorado subsequent to 1861 see an act to fix time of holding legislative sessions, resolution of May 21, 1862; to abolish slavery in, act of June 19, 1862; to define the veto and other powers of the governor and to organize the court system, March 2, 1863; to

first parallel of north latitude; thence along said parallel west to the thirty-second meridian of longitude west from Washington; thence south on said meridian to the northern line of New Mexico; thence along the thirty-seventh parallel of north latitude to the place of beginning, be and the same is hereby erected into a temporary government by the name of the Territory of Colorado: *Provided*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribe, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any State or Territory; but all such territory shall be excepted out of the boundaries and constitute no part of the Territory of Colorado until said tribe shall signify their assent to the President of the United States to be included within the said Territory, or to affect the authority of the Government of the United States to make any regulations respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent for the Government to make if this act had never passed: *Provided further*, That nothing in this act contained shall be construed to inhibit the Government of the United States from dividing said Territory into two or more Territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion thereof to any other Territory or State.

SEC. 2. *And be it further enacted*, That the executive power and authority in and over said Territory of Colorado shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States. The governor shall reside within said Territory, shall be commander-in-chief of the militia thereof, shall perform the duties and receive the emoluments of superintendent of Indian affairs, and shall approve all laws passed by the legislative assembly before they shall take effect; he may grant pardons for offences against the laws of said Territory, and reprieves for offences against the laws of the United States, until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of said Territory, and shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted*, That there shall be a secretary of said Territory, who shall reside therein, and hold his office for four years, unless sooner removed by the President of the United States; he shall record and preserve all the laws and proceedings of the

---

provide for admission to the Union, March 21, 1864; to change time for vote upon constitution, June 18, 1864; to regulate elective franchise in, January 25, 1867; to prohibit special acts of incorporation, March 2, 1867; to provide for biennial elections and rotation in terms of members of legislative assembly, act of March 30, 1867; to regulate appeals in courts and to empower the legislature to incorporate certain corporations, May 4, 1870; to amend method of making appeals in certain courts, July 14, 1870; to extend the pre-emption laws to, July 14, 1870; to apportion members of legislative assembly, February 21, 1871; to empower legislature to pass general laws for the incorporation of certain companies, June 10, 1872; to limit the duration of legislative sessions and to fix the pay of members, January 23, 1873; to amend act to enable people of, to form a constitution, March 3, 1876.

legislative assembly hereinafter constituted, and all the acts and proceedings of the governor, in his executive department; he shall transmit one copy of the laws and one copy of the executive proceedings, on or before the first day of December in each year, to the President of the United States, and, at the same time, two copies of the laws to the Speaker of the House of Representatives and the President of the Senate for the use of Congress. And in case of the death, removal, or resignation, or other necessary absence of the governor from the Territory, the secretary shall have, and he is hereby authorized and required to execute and perform, all the powers and duties of the governor during such vacancy or necessary absence, or until another governor shall be duly appointed to fill such vacancy.

SEC. 4. *And be it further enacted*, That the legislative power and authority of said Territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of nine members, which may be increased to thirteen, having the qualifications of voters as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall consist of thirteen members, which may be increased to twenty-six, possessing the same qualifications as prescribed for members of the council, and whose term of service shall continue one year. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts for the election of the council and house of representatives, giving to each section of the Territory representation in the ratio of its population (Indians excepted) as nearly as may be; and the members of the council and of the house of representatives shall reside in, and be inhabitants of, the district for which they may be elected, respectively. Previous to the first election the governor shall cause a census or enumeration of the inhabitants of the several counties and districts of the Territory to be taken; and the first election shall be held at such time and places and be conducted in such manner as the governor shall appoint and direct; and he shall, at the same time, declare the number of the members of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The number of persons authorized to be elected, having the highest number of votes in each of said council districts for members of the council, shall be declared by the governor to be duly elected to the council; and the person or persons authorized to be elected having the greatest number of votes for the house of representatives, equal to the number to which each county or district shall be entitled, shall be declared by the governor to be elected members of the house of representatives: *Provided*, That in case of a tie between two or more persons voted for, the governor shall order a new election to supply the vacancy made by such tie. And the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint; but thereafter the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives according to the population, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the legislative assembly: *Provided*, That no one session shall exceed the term of forty days, except the first, which may be extended to sixty days, but no longer.

SEC. 5. *And be it further enacted*, That every free white male citizen of the United States above the age of twenty-one years, who shall have been a resident of said Territory at the time of the passage of this act, including those recognized as citizens by the treaty with the Republic of Mexico, concluded February two, eighteen hundred and forty-eight, and the treaty negotiated with the same country on the thirtieth day of December, eighteen hundred and fifty-three, shall be entitled to vote at the first election, and shall be eligible to any office within the said Territory; but the qualifications of voters and of holding office at all subsequent elections shall be such as shall be prescribed by the legislative assembly.

SEC. 6. *And be it further enacted*, That the legislative power of the Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of the act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents; nor shall any law be passed impairing the rights of private property; nor shall any discrimination be made in taxing different kinds of property; but all property subject to taxation shall be in proportion to the value of the property taxed.

SEC. 7. *And be it further enacted*, That all township, district, and county officers not herein otherwise provided for, shall be appointed or elected, as the case may be, in such manner as shall be provided by the governor and legislative assembly of the Territory. The governor shall nominate and, by and with the advice and consent of the legislative council, appoint all officers not herein otherwise provided for; and in the first instance the governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the legislative assembly, and shall lay off the necessary districts for members of the council and house of representatives, and all other officers.

SEC. 8. *And be it further enacted*, That no member of the legislative assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been increased while he was a member, during the term for which he was elected, and for one year after the expiration of such term; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly, or shall hold any office under the government of said Territory.

SEC. 9. *And be it further enacted*, That the judicial power of said Territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief-justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said Territory annually; and they shall hold their offices during the period of four years. The said Territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court at such time and place as may be prescribed by law; and the said judges shall, after their appointments, respectively, reside in the districts which

shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts and of the justices of the peace, shall be as limited by law: *Provided*, That justices of the peace and probate courts shall not have jurisdiction of any matter in controversy when the title or boundaries of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery as well as common-law jurisdiction; and authority for redress of all wrongs committed against the Constitution or laws of the United States, or of the Territory, affecting persons or property. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exception, and appeals shall be allowed in all cases from the final decisions of said district courts to the supreme court, under such regulations as may be prescribed by law; but in no case removed to the supreme court shall trial by jury be allowed in said court. The supreme court, or the justices thereof, shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said supreme court shall be allowed, and may be taken to the Supreme Court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed one thousand dollars; and each of the said district courts shall have and exercise the same jurisdiction, in all cases arising under the Constitution and laws of the United States, as is vested in the circuit and district courts of the United States; and the said supreme and district courts of the said Territory, and the respective judges thereof, shall and may grant writs of *habeas corpus* in all cases in which the same are grantable by the judges of the United States in the District of Columbia; and the first six days of every term of said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said Constitution and laws, and writs of error and appeals in all such cases shall be made to the supreme court of said Territory the same as in other cases. The said clerk shall receive in all such cases the same fees which the clerks of the district courts of Oregon Territory received for similar services.

SEC. 10. *And be it further enacted*, That there shall be appointed an attorney for said Territory, who shall continue in office for four years, unles sooner removed by the President, and who shall receive the same fees and salary as the attorney of the United States for the late Territory of Oregon. There shall also be a marshal for the Territory appointed, who shall hold his office for four years, unless sooner removed by the President, and who shall execute all processes issuing from the said courts when exercising their jurisdiction as circuit and district courts of the United States; he shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees as the marshal of the district court of the United States for the late Territory of Oregon, and shall, in addition, be paid two hundred dollars annually as a compensation for extra services.

SEC. 11. *And be it further enacted*, That the governor, secretary, chief-justice, and associate justices, attorney, and marshal, shall be nominated and, by and with the advice and consent of the Senate, appointed by the President of the United States. The governor and secretary to be appointed as aforesaid shall, before they act as such, respectively take an oath or affirmation before the district judge or some justice of the peace in the limits of said Territory duly authorized to administer oaths and affirmations by the laws now in force therein, or before the chief-justice or some associate justice of the Supreme Court of the United States, to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices, which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken; and such certificates shall be received and recorded by the secretary among the executive proceedings; and the chief-justice and associate justices, and all other civil officers in said Territory, before they act as such, shall take a like oath or affirmation before the said governor or secretary, or some judge or justice of the peace of the Territory who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as aforesaid; and afterward the like oath or affirmation shall be taken, certified, and recorded in such manner and form as may be prescribed by law. The governor shall receive an annual salary of fifteen hundred dollars as governor, and one thousand dollars as superintendent of Indian affairs; the chief-justice and associate justices shall each receive an annual salary of eighteen hundred dollars; the secretary shall receive an annual salary of eighteen hundred dollars. The said salaries shall be paid quarter-yearly at the Treasury of the United States. The members of the legislative assembly shall be entitled to receive three dollars each per day during their attendance at the session thereof, and three dollars for every twenty miles travel in going to and returning from the said sessions, estimated according to the nearest usually travelled route. There shall be appropriated annually the sum of one thousand dollars, to be expended by the governor, to defray the contingent expenses of the Territory. There shall also be appropriated annually a sufficient sum, to be expended by the secretary of the Territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses; and the secretary of the Territory shall annually account to the Secretary of the Treasury of the United States for the manner in which the aforesaid sum shall have been expended.

SEC. 12. *And be it further enacted*, That the legislative assembly of the Territory of Colorado shall hold its first session at such time and place in said Territory as the governor thereof shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government for said Territory at such place as they may deem eligible; which place, however, shall thereafter be subject to be changed by the said governor and legislative assembly.

SEC. 13. *And be it further enacted*, That a delegate to the House of Representatives of the United States, to serve during each Congress of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the delegates from the several other Territories of the United States to the said House of Representatives. The first election shall be held at such time and places and be conducted in such manner as the governor shall appoint and direct; and at all subsequent elections the times, places, and manner of holding elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly.

SEC. 14. *And be it further enacted*, That when the land in the said Territory shall be surveyed, under the direction of [the] Government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said Territory shall be and the same are hereby reserved for the purpose of being applied to schools in the States hereafter to be erected out of the same.

SEC. 15. *And be it further enacted*, That temporarily, and until otherwise provided by law, the governor of said Territory may define the judicial districts of said Territory, and assign the judges who may be appointed for said Territory to the several districts, and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts by proclamation to be issued by him; but the legislative assembly at their first or any subsequent session may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

SEC. 16. *And be it further enacted*, That the Constitution and all laws of the United States which are not locally inapplicable shall have the same force and effect within the said Territory of Colorado as elsewhere within the United States.

SEC. 17. *And be it further enacted*, That the President of the United States, by and with the advice and consent of the Senate, shall be and he is hereby authorized to appoint a surveyor-general for Colorado, who shall locate his office at such place as the Secretary of the Interior shall from time to time direct, and whose duties, powers, obligations, responsibilities, compensation, and allowances for clerk-hire, office-rent, fuel, and incidental expenses shall be the same as those of the surveyor-general of New Mexico, under the direction of the Secretary of the Interior, and such instructions as he may from time to time deem it advisable to give him.

Approved, February 28, 1861.

ENABLING ACT FOR COLORADO—1875 [a]

[FORTY-THIRD CONGRESS, SECOND SESSION]

An Act to enable the people of Colorado to form a constitution and State government, and for the admission of the said State into the Union on an equal footing with the original States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of the Territory of Colorado included in the boundaries hereinafter designated be, and they are hereby, authorized to form for themselves, out of said Territory, a State government, with the name of the State of Colorado; which State, when formed, shall be admitted into the Union upon an equal footing with the original States in all respects whatsoever, as hereinafter provided.

SEC. 2. That the said State of Colorado shall consist of all the territory included within the following boundaries, to wit: Commencing on the thirty-seventh parallel of north latitude, where the twenty-fifth meridian of longitude west from Washington crosses the same; thence north, on said meridian, to the forty-first parallel of north latitude; thence along said parallel west to the thirty-second meridian of longitude west from Washington; thence south on said meridian to the thirty-seventh parallel of north latitude; thence along said thirty-seventh parallel of north latitude to the place of beginning.

SEC. 3. That all persons qualified by law to vote for representatives to the general assembly of said Territory, at the date of the passage of this act, shall be qualified to be elected, and they are hereby authorized to vote for and choose representatives to form a convention under such rules and regulations as the governor of said Territory, the chief-justice, and the United States attorney thereof may prescribe; and also to vote upon the acceptance or rejection of such constitution as may be formed by said convention, under such rules and regulations as said convention may prescribe; and the aforesaid representatives to form the aforesaid convention shall be apportioned among the several counties in said Territory in proportion to the vote polled in each of said counties at the last general election, as near as may be; and said apportionment shall be made for said Territory by the governor, United States district attorney, and chief-justice thereof, or any two of them; and the governor of said Territory shall, by proclamation, order an election of the representatives aforesaid to be held throughout the Territory at such time as shall be fixed by the governor, chief-justice, and United States attorney, or any two of them, which proclamation shall be issued within ninety days next after the first day of September, eighteen hundred and seventy-

[a] An enabling act for the admission of Colorado into the Union was passed March 21, 1864. A State constitution, formed by a convention held in 1864, under the provisions of this act, was submitted to the voters of Colorado, and was rejected; but a second constitution, formed by a second convention, held in August, 1865, was submitted to the voters of Colorado on the 5th of September, 1865, and was ratified by a majority of 105. Congress at the ensuing session passed an act for the admission of Colorado into the Union, which was vetoed by President Johnson May 15, 1866. A second bill passed by Congress for the admission of Colorado into the Union was also vetoed by President Johnson January 29, 1867.

five, and at least thirty days prior to the time of said election; and such election shall be conducted in the same manner as is prescribed by the laws of said Territory regulating elections therein for members of the house of representatives; and the number of members to said convention shall be the same as now constitutes both branches of the legislature of the aforesaid Territory.

SEC. 4. That the members of the convention thus elected shall meet at the capital of said Territory, on a day to be fixed by said governor, chief-justice, and United States attorney, not more than sixty days subsequent to the day of election, which time of meeting shall be contained in the aforesaid proclamation mentioned in the third section of this act, and, after organization, shall declare, on behalf of the people of said Territory, that they adopt the Constitution of the United States; whereupon the said convention shall be, and is hereby, authorized to form a constitution and State government for said Territory: *Provided*, That the constitution shall be republican in form, and make no distinction in civil or political rights on account of race or color, except Indians not taxed, and not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence: *And provided further*, That said convention shall provide, by an ordinance irrevocable without the consent of the United States and the people of said State, first, that perfect toleration of religious sentiment shall be secured, and no inhabitant of said State shall ever be molested, in person or property, on account of his or her mode of religious worship; secondly, that the people inhabiting said Territory, do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within said Territory, and that the same shall be and remain at the sole and entire disposition of the United States, and that the lands belonging to citizens of the United States residing without the said State shall never be taxed higher than the lands belonging to residents thereof, and that no taxes shall be imposed by the State on lands or property therein belonging to, or which may hereafter be purchased by, the United States.

SEC. 5. That in case the constitution and State government shall be formed for the people of said Territory of Colorado, in compliance with the provisions of this act, said convention forming the same shall provide, by ordinance, for submitting said constitution to the people of said State for their ratification or rejection, at an election, to be held at such time, in the month of July, eighteen hundred and seventy-six, and at such places and under such regulations as may be prescribed by said convention, at which election the lawful voters of said new State shall vote directly for or against the proposed constitution; and the returns of said election shall be made to the acting governor of the Territory; who, with the chief-justice and United States attorney of said Territory, or any two of them, shall canvass the same; and if a majority of legal votes shall be cast for said constitution in said proposed State, the said acting governor shall certify the same to the President of the United States, together with a copy of said constitution and ordinances; whereupon it shall be the duty of the President of the United States to issue his proclamation declaring the State admitted into the Union on an equal footing with the original States, without any further action whatever on the part of Congress.

SEC. 6. That until the next general census said State shall be entitled to one Representative in the House of Representatives of the United States, which Representative, together with the governor and State and other officers provided for in said constitution, shall be elected on a day subsequent to the adoption of the constitution, and to be fixed by said constitutional convention; and until said State officers are elected and qualified under the provisions of the constitution, the territorial officers shall continue to discharge the duties of their respective offices.

SEC. 7. That sections numbered sixteen and thirty-six in every township, and where such sections have been sold or otherwise disposed of by any act of Congress, other lands, equivalent thereto, in legal subdivisions of not more than one quarter-section, and as contiguous as may be, are hereby granted to said State for the support of common schools.

SEC. 8. That, provided the State of Colorado shall be admitted into the Union in accordance with the foregoing provisions of this act, fifty entire sections of the unappropriated public lands within said State, to be selected and located by direction of the legislature thereof, and with the approval of the President, on or before the first day of January, eighteen hundred and seventy-eight, shall be, and are hereby, granted, in legal subdivisions of not less than one quarter-section, to said State for the purpose of erecting public buildings at the capital of said State for legislative and judicial purposes, in such manner as the legislature shall prescribe.

SEC. 9. That fifty other entire sections of land as aforesaid, to be selected and located and with the approval as aforesaid, in legal subdivisions as aforesaid, shall be, and they are hereby, granted to said State for the purpose of erecting a suitable building for a penitentiary or State prison in the manner aforesaid.

SEC. 10. That seventy-two other sections of land shall be set apart and reserved for the use and support of a State university, to be selected and approved in manner as aforesaid, and to be appropriated and applied as the legislature of said State may prescribe for the purpose named and for no other purpose.

SEC. 11. That all salt-springs within said State, not exceeding twelve in number, with six sections of land adjoining, and as contiguous as may be to each, shall be granted to said State for its use, the said land to be selected by the governor of said State within two years after the admission of the State, and when so selected to be used and disposed of on such terms, conditions, and regulations as the legislature shall direct: *Provided*, That no salt-spring or lands the right whereof is now vested in any individual or individuals, or which hereafter shall be confirmed or adjudged to any individual or individuals, shall by this act be granted to said State.

SEC. 12. That five per centum of the proceeds of the sales of agricultural public lands lying within said State which shall be sold by the United States subsequent to the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to the said State for the purpose of making such internal improvements within said State as the legislature thereof may direct: *Provided*, That this section shall not apply to any lands disposed of under the homestead laws of the United States, or to any lands now or hereafter reserved for public or other uses.

SEC. 13. That any balance of the appropriations for the legislative expenses of said Territory of Colorado remaining unexpended shall be applied to and used for defraying the expenses of said convention, and for the payment of the members thereof, under the same rules and regulations and rates as are now provided by law for the payment of the territorial legislature.

SEC. 14. That the two sections of land in each township herein granted for the support of common schools shall be disposed of only at public sale and at a price not less than two dollars and fifty cents per acre, the proceeds to constitute a permanent school-fund, the interest of which to be expended in the support of common schools.

SEC. 15. That all mineral-lands shall be excepted from the operation and grants of this act.

Approved, March 3, 1875.

PROCLAMATION ANNOUNCING THE ADMISSION OF COLORADO—1876

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

Whereas the Congress of the United States did, by an act approved on the 3rd day of March, 1875, authorize the inhabitants of the Territory of Colorado to form for themselves out of said Territory a State government with the name of the State of Colorado, and for the admission of such State into the Union on an equal footing with the original States upon certain conditions in said act specified; and

Whereas it was provided by said act of Congress that the convention elected by the people of said Territory to frame a State constitution should, when assembled for that purpose and after organization, declare on behalf of the people that they adopt the Constitution of the United States, and should also provide by an ordinance, irrevocable without the consent of the United States and the people of said State, that perfect toleration of religious sentiment shall be secured and that no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship, and that the people inhabiting said Territory do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within said Territory and that the same shall be and remain at the sole and entire disposition of the United States, and that the lands belonging to citizens of the United States residing without the said State shall never be taxed higher than the lands belonging to residents thereof, and that no taxes shall be imposed by the State on lands or property therein belonging to or which may hereafter be purchased by the United States; and

Whereas it was further provided by said act that the constitution thus formed for the people of the Territory of Colorado should, by an ordinance of the convention forming the same, be submitted to the people of said Territory for ratification or rejection at an election to be held in the month of July, 1876, at which election the lawful voters of said new State should vote directly for or against the proposed constitution, and the returns of said election should be made to the acting governor of the Territory, who, with the chief justice and

United States attorney of said Territory, or any two of them, should canvass the same, and, if a majority of legal votes should be cast for said constitution in said proposed State the said acting governor should certify the same to the President of the United States, together with a copy of said constitution and ordinances, whereupon it should be the duty of the President of the United States to issue his proclamation declaring the State admitted into the Union on an equal footing with the original States, without any further action whatever on the part of Congress; and

Whereas it has been certified to me by the acting governor of said Territory of Colorado that within the time prescribed by said act of Congress a constitution for said proposed State has been adopted and the same ratified by a majority of the legal voters of said proposed new State, in accordance with the conditions prescribed by said act of Congress; and

Whereas a duly authenticated copy of said constitution and of the declaration and ordinance required by said act has been received by me:

Now, therefore, I, Ulysses S. Grant, President of the United States of America, do, in accordance with the provisions of the act of Congress aforesaid, declare and proclaim the fact that the fundamental conditions imposed by Congress on the State of Colorado to entitle that State to admission to the Union have been ratified and accepted, and that the admission of the said State into the Union is now complete.

In testimony whereof I have hereunto set my hand and have caused the seal of the United States to be affixed.

Done at the city of Washington, this 1st day of August, [SEAL.] A. D. 1876, and of the Independence of the United States of America the one hundred and first.

U. S. GRANT.

By the President:

HAMILTON FISH,
Secretary of State.

CONSTITUTION OF COLORADO—1876 *[a]

PREAMBLE

We, the people of Colorado, with profound reverence for the Supreme Ruler of the Universe, in order to form a more independent and perfect government, establish justice, insure tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the State of Colorado.

---

* Verified from "The Constitution of the State of Colorado, Adopted in Convention, March 14, 1876. Denver, Col.: Tribune Book and Job Printing House."

[a] This constitution was adopted at a convention which met at Denver, December 20, 1875, and completed its labors March 14, 1876. It was submitted to the people of Colorado and ratified July 1, 1876. The President of the United States issued his proclamation, August 1, 1876, declaring that the fundamental conditions imposed by Congress had been ratified, and that the admission of the State into the Union was complete.

Article I

BOUNDARIES

The boundaries of the State of Colorado shall be as follows: Commencing on the thirty-seventh parallel of north latitude, where the twenty-fifth meridian of longitude west from Washington crosses the same; thence north on said meridian to the forty-first parallel of north latitude; thence along said parallel west to the thirty-second meridian of longitude west from Washington; then south on said meridian to the thirty-seventh parallel of north latitude; thence along said thirty-seventh parallel of north latitude to the place of beginning.

Article II

BILL OF RIGHTS

In order to assert our rights, acknowledge our duties, and proclaim the principles upon which our government is founded, we declare—

Section 1. That all political power is vested in and derived from the people; that all government, of right, originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

Sec. 2. That the people of this State have the sole and exclusive right of governing themselves, as a free, sovereign, and independent State, and to alter and abolish their constitution and form of government whenever they may deem it necessary to their safety and happiness, provided such change be not repugnant to the Constitution of the United States.

Sec. 3. That all persons have certain natural, essential, and inalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property, and of seeking and obtaining their safety and happiness.

Sec. 4. That the free exercise and enjoyment of religious profession and worship, without discrimination, shall forever hereafter be guaranteed; and no person shall be denied any civil or political right, privilege, or capacity on account of his opinions concerning religion; but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness, or justify practices inconsistent with the good order, peace, or safety of the State. No person shall be required to attend or support any ministry or place of worship, religious sect or denomination against his consent; nor shall any preference be given by law to any religious denomination or mode of worship.

Sec. 5. That all elections shall be free and open; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

Sec. 6. That courts of justice shall be open to every person, and a speedy remedy afforded for every injury to person, property, or character; and that right and justice should be administered without sale, denial, or delay.

Sec. 7. That the people shall be secure in their persons, papers, homes, and effects from unreasonable searches and seizures; and no

warrant to search any place or seize any person or thing shall issue without describing the place to be searched, or the person or thing to be seized, as near as may be, nor without probable cause, supported by oath or affirmation, reduced to writing.

SEC. 8. That, until otherwise provided by law, no person shall, for a felony, be proceeded against criminally, otherwise than by indictment, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger. In all other cases offences shall be prosecuted criminally by indictment or information.

SEC. 9. That treason against the State can consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort; that no person can be convicted of treason unless on the testimony of two witnesses to the same overt act, or on his confession in open court; that no person can be attainted of treason or felony by the general assembly; that no conviction can work corruption of blood or forfeiture of estate; that the estates of such persons as may destroy their own lives shall descend or vest as in cases of natural death.

SEC. 10. That no law shall be passed impairing the freedom of speech; that every person shall be free to speak, write, or publish whatever he will on any subject, being responsible for all abuse of that liberty; and that in all suits and prosecutions for libel, the truth thereof may be given in evidence, and the jury, under the direction of the court, shall determine the law and the fact.

SEC. 11. That no *ex post facto* law, nor law impairing the obligation of contracts, or retrospective in its operation, or making any irrevocable grant of special privileges, franchises, or immunities, shall be passed by the general assembly.

SEC. 12. That no person shall be imprisoned for debt, unless upon refusal to deliver up his estate for the benefit of his creditors, in such manner as shall be prescribed by law, or in cases of tort or where there is strong presumption of fraud.

SEC. 13. That the right of no person to keep and bear arms in defence of his home, person, and property, or in aid of the civil power when thereto legally summoned, shall be called in question; but nothing herein contained shall be construed to justify the practice of carrying concealed weapons.

SEC. 14. That private property shall not be taken for private use unless by consent of the owner, except for private ways of necessity, and except for reservoirs, drains, flumes, or ditches on or across the lands of others, for agricultural, mining, milling, domestic, or sanitary purposes.

SEC. 15. That private property shall not be taken or damaged, for public or private use, without just compensation. Such compensation shall be ascertained by a board of commissioners, of not less than three freeholders, or by a jury, when required by the owner of the property, in such manner as may be prescribed by law, and until the same shall be paid to the owner, or into court for the owner, the property shall not be needlessly disturbed, or the proprietary rights of the owner therein divested; and whenever an attempt is made to take private property for a use alleged to be public, the question whether the contemplated use be really public shall be a judicial question, and

determined as such without regard to any legislative assertion that the use is public.

SEC. 16. That in criminal prosecutions the accused shall have the right to appear and defend in person and by counsel; to demand the nature and cause of the accusation; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offence is alleged to have been committed.

SEC. 17. That no person shall be imprisoned for the purpose of securing his testimony in any case longer than may be necessary in order to take his deposition. If he can give security he shall be discharged; if he cannot give security, his deposition shall be taken by some judge of the supreme, district, or county court, at the earliest time he can attend, at some convenient place by him appointed for that purpose, of which time and place the accused and the attorney prosecuting for the people shall have reasonable notice. The accused shall have the right to appear in person and by counsel. If he have no counsel the judge shall assign him one in that behalf only. On the completion of such examination the witness shall be discharged on his own recognizance, entered in before said judge, but such deposition shall not be used if, in the opinion of the court, the personal attendance of the witness might be procured by the prosecution, or is procured by the accused. No exception shall be taken to such deposition as to matters of form.

SEC. 18. That no person shall be compelled to testify against himself in a criminal case, nor shall any person be twice put in jeopardy for the same offence. If the jury disagree, or if the judgment be arrested after verdict, or if the judgment be reserved for error in law, the accused shall not be deemed to have been in jeopardy.

SEC. 19. That all persons shall be bailable by sufficient sureties, except for capital offences, when the proof is evident or the presumption great.

SEC. 20. That excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

SEC. 21. That the privilege of the writ of *habeas corpus* shall never be suspended, unless when, in case of rebellion or invasion, the public safety may require it.

SEC. 22. That the military shall always be in strict subordination to the civil power; that no soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war except in the manner prescribed by law.

SEC. 23. The right of trial by jury shall remain inviolate in criminal cases; but a jury in civil cases in all courts, or in criminal cases in courts not of record, may consist of less than twelve men, as may be prescribed by law. Hereafter a grand jury shall consist of twelve men, any nine of whom concurring may find an indictment: *Provided*, The general assembly may change, regulate, or abolish the grand-jury system.

SEC. 24. That the people have the right peaceably to assemble for the common good, and to apply to those invested with the powers of government for redress of grievances, by petition or remonstrance.

SEC. 25. That no person shall be deprived of life, liberty, or property without due process of law.

SEC. 26. That there shall never be in this State either slavery or involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted.

SEC. 27. Aliens, who are or who may hereafter become *bona-fide* residents of this State, may acquire, inherit, possess, enjoy, and dispose of property, real and personal, as native-born citizens.

SEC. 28. The enumeration in this constitution of certain rights shall not be construed to deny, impair, or disparage others retained by the people.

ARTICLE III

DISTRIBUTION OF POWERS

The powers of the government of this State are divided into three distinct departments, the legislative, executive, and judicial, and no person, or collection of persons, charged with the exercise of powers properly belonging to one of these departments shall exercise any power properly belonging to either of the others, except as in this constitution expressly directed or permitted.

ARTICLE IV

EXECUTIVE DEPARTMENT

SECTION 1. The executive department shall consist of a governor, lieutenant-governor, secretary of state, auditor of state, State treasurer, attorney-general, and superintendent of public instruction, each of whom shall hold his office for the term of two years, beginning on the second Tuesday of January next after his election: *Provided*, That the terms of office of those chosen at the first election held under this constitution shall begin on the day appointed for the first meeting of the general assembly. The officers of the executive department, excepting the lieutenant-governor, shall, during their term of offices, reside at the seat of government, where they shall keep the public records, books, and papers. They shall perform such duties as are prescribed by this constitution or by law.

SEC. 2. The supreme executive power of the State shall be vested in the governor, who shall take care that the laws be faithfully executed.

SEC. 3. The officers named in section one of this article shall be chosen on the day of the general election by the qualified electors of the State. The returns of every election for said officers shall be sealed up and transmitted to the secretary of state, directed to the speaker of the house of representatives, who shall immediately, upon the organization of the house, and before proceeding to other business, open and publish the same in the presence of a majority of the members of both houses of the general assembly, who shall for that purpose assemble in the house of representatives. The person having the highest number of votes for either of said offices shall be declared duly elected, but if two or more have an equal and the highest number of votes for the same office, one of them shall be chosen thereto by the two houses, on joint ballot. Contested elections for the said offices shall be determined by the two houses, on joint ballot, in such manner as may be prescribed by law.

SEC. 4. No person shall be eligible to the office of governor, lieutenant-governor, or superintendent of public instruction, unless he should have attained the age of thirty years, nor to the office of auditor of state, secretary of state, or State treasurer, unless he shall have attained the age of twenty-five years, nor to the office of attorney-general unless he shall have attained the age of twenty-five years, and be a licensed attorney of the supreme court of the State, or of the Territory of Colorado, in good standing. At the first election under this constitution, any person being a qualified elector at the time of the adoption of this constitution, and having the qualifications above herein prescribed for any one of said officers, shall be eligible thereto; but thereafter no person shall be eligible to any one of said offices, unless, in addition to the qualifications above prescribed therefor, he shall be a citizen of the United States, and have resided within the limits of the State two years next preceding his election.

SEC. 5. The governor shall be commander-in-chief of the military forces of the State, except when they shall be called into actual service of the United States. He shall have power to call out the militia to execute the laws, suppress insurrection, or repel invasion.

SEC. 6. The governor shall nominate, and by and with the consent of the senate appoint, all officers whose offices are established by this constitution, or which may be created by law, and whose appointment or election is not otherwise provided for, and may remove any such officer for incompetency, neglect of duty, or malfeasance in office. If during the recess of the senate a vacancy occur in any such office, the governor shall appoint some fit person to discharge the duties thereof until the next meeting of the senate, when he shall nominate some person to fill such office. If the office of auditor of state, State treasurer, secretary of state, attorney-general, or superintendent of public instruction shall be vacated by death, resignation, or otherwise, it shall be the duty of the governor to fill the same by appointment, and the appointee shall hold his office until his successor shall be elected and qualified in such manner as may be provided by law. The senate in deliberating upon executive nominations may sit with closed doors, but in acting upon nominations they shall sit with open doors, and the vote shall be taken by ayes and noes, which shall be entered upon the journal.

SEC. 7. The governor shall have power to grant reprieves, commutations, and pardons after conviction, for all offences except treason, and except in case of impeachment, subject to such regulations as may be prescribed by law relative to the manner of applying for pardons, but he shall in every case, where he may exercise this power, send to the general assembly, at its first session thereafter, a transcript of the petition, all proceedings, and the reasons for his action.

SEC. 8. The governor may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices, which information shall be given upon oath whenever so required; he may also require information in writing at any time, under oath, from all officers and managers of State institutions upon any subject relating to the condition, management, and expenses of their respective offices and institutions. The governor shall, at the commencement of each session, and from time to time, by message, give to the general assembly information of the condition of the State, and shall recommend such measures as he

shall deem expedient. He shall also send to the general assembly a statement, with vouchers, of the expenditures of all moneys belonging to the State and paid out by him. He shall also, at the commencement of each session, present estimates of the amount of money required to be raised by taxation for all purposes of the State.

SEC. 9. The governor may, on extraordinary occasions, convene the general assembly, by proclamation, stating therein the purpose for which it is assembled; but at such special session no business shall be transacted other than that specially named in the proclamation. He may, by proclamation, convene the Senate in extraordinary session for the transaction of executive business.

SEC. 10. The governor, in case of a disagreement between the two houses as to the time of adjournment, may, upon the same being certified to him by the house last moving adjournment, adjourn the general assembly to a day not later than the first day of the next regular session.

SEC. 11. Every bill passed by the general assembly shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it, and thereupon it shall become a law; but if he do not approve, he shall return it, with his objections, to the house in which it originated, which house shall enter the objections at large upon its journal, and proceed to reconsider the bill. If then two-thirds of the members elected agree to pass the same, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of the members elected to that house, it shall become a law, notwithstanding the objections of the governor. In all such cases the vote of each house shall be determined by ayes and noes, to be entered upon the journal. If any bill shall not be returned by the governor within ten days after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the general assembly shall, by their adjournment, prevent its return, in which case it shall be filed, with his objections, in the office of the secretary of state, within thirty days after such adjournment, or else become a law.

SEC. 12. The governor shall have power to disapprove of any item or items of any bill making appropriations of money, embracing distinct items, and part or parts of the bill approved shall be law, and the item or items disapproved shall be void, unless enacted in manner following: If the general assembly be in session, he shall transmit to the house in which the bill originated a copy of the item or items thereof disapproved, together with his objections thereto, and the items objected to shall be separately reconsidered, and each item shall then take the same course as is prescribed for the passage of bills over the executive veto.

LIEUTENANT-GOVERNOR

SEC. 13. In case of the death, impeachment, or conviction of felony or infamous misdemeanor, failure to qualify, resignation, absence from the State, or other disability of the governor, the powers, duties, and emoluments of the office, for the residue of the term, or until the disability be removed, shall devolve upon the lieutenant-governor.

SEC. 14. The lieutenant-governor shall be president of the senate, and shall vote only when the senate is equally divided. In case of

the absence, impeachment, or disqualification from any cause of the lieutenant-governor, or when he shall hold the office of governor, then the president *pro tempore* of the senate shall perform the duties of the lieutenant-governor until the vacancy is filled or the disability removed.

SEC. 15. In case of the failure to qualify in his office, death, resignation, absence from the State, impeachment, conviction of felony, or infamous misdemeanor, or disqualification from any cause, of both the governor and lieutenant-governor, the duties of the governor shall devolve on the president of the senate *pro tempore*, until such disqualification of either the governor or lieutenant-governor be removed, or the vacancy be filled; and if the president of the senate, for any of the above-named causes, shall become incapable of performing the duties of governor, the same shall devolve upon the speaker of the house.

SEC. 16. An account shall be kept by the officers of the executive department and of all public institutions of the State of all moneys received by them severally from all sources, and for every service performed, and of all moneys disbursed by them severally, and a semi-annual report thereof shall be made to the governor, under oath.

SEC. 17. The officers of the executive department, and of all public institutions of the State, shall, at least twenty days preceding each regular session of the general assembly, make full and complete report of their actions to the governor, who shall transmit the same to the general assembly.

SEC. 18. There shall be a seal of the State, which shall be kept by the secretary of state, and shall be called the "Great Seal of the State of Colorado." The seal of the Territory of Colorado, as now used, shall be the seal of the State until otherwise provided by law.

SEC. 19. The officers named in section one of this article shall receive for their services a salary to be established by law, which shall not be increased or diminshed during their official terms. It shall be the duty of all such officers to collect in advance all fees prescribed by law for services rendered by them severally, and pay the same into the State treasury.

SEC. 20. The superintendent of public instruction shall be *ex officio* State librarian.

SEC. 21. Neither the State treasurer nor State auditor shall be eligible for re-election as his own immediate successor.

ARTICLE V

LEGISLATIVE DEPARTMENT

SECTION 1. The legislative power shall be vested in the general assembly, which shall consist of a senate and a house of representatives, both to be elected by the people.

SEC. 2. An election for members of the general assembly shall be held on the first Tuesday in October, in the years of our Lord 1876 and 1878, and in each alternate year thereafter, on such day, at such places in each county as now are, or hereafter may be, provided by law. The first election for members of the general assembly under

the State organization shall be conducted in the manner prescribed by the laws of Colorado Territory regulating elections for members of the legislative assembly thereof. When vacancies occur in either house the governor, or person exercising the powers of governor, shall issue writs of election to fill such vacancies.

SEC. 3. Senators shall be elected for the term of four years, except as hereinafter provided, and representatives for the term of two years.

SEC. 4. No person shall be a representative or senator who shall not have attained the age of twenty-five years, who shall not be a citizen of the United States, who shall not for at least twelve months next preceding his election have resided within the Territory included in the limits of the county or district in which he shall be chosen: *Provided*, That any person who at the time of the adoption of this constitution was a qualified elector under the territorial laws, shall be eligible to the first general assembly.

SEC. 5. The senators, at their first session, shall be divided into two classes. Those elected in districts designated by even numbers shall constitute one class; those elected in districts designated by odd numbers shall constitute the other class, except that senators elected in each of the districts having more than one senator shall be equally divided between the two classes. The senators of one class shall hold for two years; those of the other class shall hold for four years; to be decided by lot between the two classes, so that one-half of the senators, as near as practicable, may be biennially chosen forever thereafter.

SEC. 6. Each member of the first general assembly, as a compensation for his services, shall receive four dollars for each day's attendance, and fifteen cents for each mile necessarily travelled in going to and returning from the seat of government; and shall receive no other compensation, perquisite, or allowance whatsoever. No session of the general assembly, after the first, shall exceed forty days. After the first session the compensation of the members of the general assembly shall be as provided by law: *Provided*, That no general assembly shall fix its own compensation.

SEC. 7. The general assembly shall meet at 12 o'clock, noon, on the first Wednesday in November, A. D. 1876; and at 12 o'clock, noon, on the first Wednesday in January, A. D. 1879, and at 12 o'clock, noon, on the first Wednesday in January of each alternate year forever thereafter, and at other times when convened by the governor. The term of service of the members thereof shall begin on the first Wednesday of November next after their election, until otherwise provided by law.

SEC. 8. No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office under this State; and no member of Congress, or other person holding any office (except of attorney at law, notary public, or in the militia,) under the United States, or this State, shall be a member of either house during his continuance in office.

SEC. 9. No member of either house shall, during the term for which he may have been elected, receive any increase of salary or mileage, under any law passed during such term.

SEC. 10. The senate shall, at the beginning and close of each regular session, and at such other times as may be necessary, elect one of its members president *pro tempore*. The house of representatives

shall elect one of its members as speaker. Each house shall choose its other officers, and shall judge of the election and qualification of its members.

SEC. 11. A majority of each house shall constitute a quorum, but a smaller number may adjourn from day to day, and compel the attendance of absent members.

SEC. 12. Each house shall have power to determine the rules of its proceedings, and punish its members or other persons for contempt or disorderly behavior in its presence; to enforce obedience to its process; to protect its members against violence, or offers of bribes, or private solicitation, and, with the concurrence of two-thirds, to expel a member, but not a second time for the same cause; and shall have all other powers necessary for the legislature of a free State. A member, expelled for corruption, shall not thereafter be eligible to either house of the same general assembly, and punishment for contempt or disorderly behavior shall not bar an indictment for the same offence.

SEC. 13. Each house shall keep a journal of its proceedings, and may in its discretion, from time to time, publish the same, except such parts as require secrecy, and the ayes and noes on any question shall, at the desire of any two members, be entered on the journal.

SEC. 14. The sessions of each house, and of the committees of the whole, shall be open, unless when the business is such as ought to be kept secret.

SEC. 15. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 16. The members of the general assembly shall, in all cases except treason, felony, violation of their oath of office, and breach or surety of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

SEC. 17. No law shall be passed except by bill, and no bill shall be so altered or amended on its passage through either house as to change its original purpose.

SEC. 18. The style of the laws of this State shall be: "*Be it enacted by the general assembly of the State of Colorado.*"

SEC. 19. No act of the general assembly shall take effect until ninety days after its passage, unless in case of emergency, (which shall be expressed in the preamble or body of the act,) the general assembly shall, by a vote of two-thirds of all the members elected to each house, otherwise direct. No bill except the general appropriation for the expenses of the government only, introduced in either house of the general assembly after the first twenty-five days of the session shall become a law.

SEC. 20. No bill shall be considered or become a law unless referred to a committee, returned therefrom, and printed for the use of the members.

SEC. 21. No bill, except general appropriation bills, shall be passed containing more than one subject, which shall be clearly expressed in its title; but if any subject shall be embraced in any act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed.

SEC. 22. Every bill shall be read at length, on three different days, in each house; all substantial amendments made thereto shall be printed for the use of the members, before the final vote is taken on the bill; and no bill shall become a law except by vote of a majority of all the members elected to each house, nor unless on its final passage the vote be taken by ayes and noes, and the names of those voting be entered on the journal.

SEC. 23. No amendment to any bill by one house shall be concurred in by the other, nor shall the report of any committee of conference be adopted in either house, except by a vote of a majority of the members elected thereto, taken by ayes and noes, and the names of those voting recorded upon the journal thereof.

SEC. 24. No law shall be revived, or amended, or the provisions thereof extended or conferred by reference to its title only, but so much thereof as is revived, amended, extended, or conferred shall be re-enacted and published at length.

SEC. 25. The general assembly shall not pass local or special laws in any of the following enumerated cases, that is to say: For granting divorces; laying out, opening, altering, or working roads or highways; vacating roads, town-plats, streets, alleys, and public grounds; locating or changing county-seats; regulating county or township affairs; regulating the practice in courts of justice; regulating the jurisdiction and duties of justices of the peace, police magistrates and constables; changing the rules of evidence in any trial or inquiry; providing for changes of venue in civil or criminal cases; declaring any person of age; for limitation of civil actions or giving effect to informal or invalid deeds; summoning or impanelling grand or petit juries; providing for the management of common schools; regulating the rate of interest on money; the opening or conducting of any election, or designating the place of voting; the sale or mortgage of real estate belonging to minors or others under disability; the protection of game or fish; chartering or licensing ferries or toll-bridges; remitting fines, penalties, or forfeitures; creating, increasing, or decreasing fees, percentage, or allowances of public officers; changing the law of descent; granting to any corporation, association, or individual the right to lay down railroad-tracks; granting to any corporation, association, or individual any special or exclusive privilege, immunity, or franchise whatever. In all other cases, where a general law can be made applicable, no special law shall be enacted.

SEC. 26. The presiding officer of each house shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the general assembly, after their titles shall have been publicly read, immediately before signing; and the fact of signing shall be entered on the journal.

SEC. 27. The general assembly shall prescribe by law the number, duties, and compensation of the officers and employés of each house; and no payment shall be made from the State treasury, or be in any way authorized to any person, except to an acting officer or employé elected or appointed in pursuance of law.

SEC. 28. No bill shall be passed giving any extra compensation to any public officer, servant or employé, agent or contractor, after services shall have been rendered or contract made, nor providing for the payment of any claim made against the State without previous authority of law.

SEC. 29. All stationery, printing, paper, and fuel used in the legislative and other departments of government, shall be furnished; and the printing and binding and distributing of the laws, journals, department reports, and other printing and binding; and the repairing and furnishing the halls and rooms used for the meeting of the general assembly and its committees, shall be performed under contract, to be given to the lowest responsible bidder, below such maximum price and under such regulations as may be prescribed by law. No member or officer of any department of the government shall be in any way interested in any such contract; and all such contracts shall be subject to the approval of the governor and State treasurer.

SEC. 30. Except as otherwise provided in this constitution, no law shall extend the term of any public officer, or increase or diminish his salary or emoluments after his election or appointment: *Provided*, This shall not be construed to forbid the general assembly to fix the salary or emoluments of those first elected or appointed under this constitution.

SEC. 31. All bills for raising revenue shall originate in the house of representatives; but the senate may propose amendments, as in case of other bills.

SEC. 32. The general appropriation bill shall embrace nothing but appropriations for the ordinary expenses of the executive, legislative, and judicial departments of the State, interest on the public debt, and for public schools. All other appropriations shall be made by separate bills, each embracing but one subject.

SEC. 33. No money shall be paid out of the treasury except upon appropriations made by law, and on warrant drawn by the proper officer in pursuance thereof.

SEC. 34. No appropriation shall be made for charitable, industrial, educational, or benevolent purposes to any person, corporation, or community not under the absolute control of the State, nor to any denominational or sectarian institution or association.

SEC. 35. The general assembly shall not delegate to any special commission, private corporation, or association any power to make, supervise, or interfere with any municipal improvement, money, property, or effects, whether held in trust or otherwise, or to levy taxes, or to perform any municipal function whatever.

SEC. 36. No act of the general assembly shall authorize the investment of trust-funds by executors, administrators, guardians, or other trustees in the bonds or stock of any private corporation.

SEC. 37. The power to change the venue in civil and criminal cases shall be vested in the courts, to be exercised in such a manner as shall be provided by law.

SEC. 38. No obligation or liability of any person, association, or corporation, held or owned by the State, or any municipal corporation therein, shall ever be exchanged, transferred, remitted, released, or postponed, or in any way diminished by the general assembly, nor shall such liability or obligation be extinguished except by payment thereof into the proper treasury.

SEC. 39. Every order, resolution, or vote to which the concurrence of both houses may be necessary, except on the question of adjournment, or relating solely to the transaction of business of the two houses, shall be presented to the governor, and before it shall take effect, be approved by him, or being disapproved, shall be repassed

by two-thirds of both houses, according to the rules and limitations prescribed in case of a bill.

SEC. 40. If any person elected to either house of the general assembly shall offer or promise to give his vote or influence in favor of or against any measure or proposition, pending or proposed to be introduced into the general assembly, in consideration or upon condition that any other person elected to the same general assembly will give or will promise or assent to give his vote or influence in favor of or against any other measure or proposition, pending or proposed to be introduced in such general assembly, the person making such offer or promise shall be deemed guilty of solicitation and bribery. If any member of the general asembly shall give his vote or influence for or against any measure or proposition pending in such general assembly, or offer, promise, or assent so to do, upon condition that any other member will give or will promise or assent to give his vote or influence in favor of or against any other measure or proposition pending or proposed to be introduced in such general assembly, or in consideration that any other member hath given his vote or influence for or against any other measure or proposition in such general assembly, he shall be deemed guilty of bribery; and any member of the general assembly, or person elected thereto, who shall be guilty of either of such offences shall be expelled, and shall not be thereafter eligible to the same general assembly; and, on the conviction thereof in the civil courts, shall be liable to such further penalty as may be prescribed by law.

SEC. 41. Any person who shall, directly or indirectly, offer, give, or promise any money or thing of value, testimonial, privilege, or personal advantage to any executive or judicial officer or member of the general assembly to influence him in the performance of any of his public or official duties, shall be deemed guilty of bribery, and be punished in such manner as shall be provided by law.

SEC. 42. The offence of corrupt solicitation of members of the general assembly, or of public officers of the State, or of any municipal division thereof, and any occupation or practice of solicitation of such members or officers to influence their official action, shall be defined by law, and shall be punished by fine and imprisonment.

SEC. 43. A member who has a personal or private interest in any measure or bill proposed or pending before the general assembly, shall disclose the fact to the house of which he is a member, and shall not vote thereon.

CONGRESSIONAL AND LEGISLATIVE APPORTIONMENT

SEC. 44. One Representative in the Congress of the United States shall be elected from the State at large at the first election under this constitution, and thereafter at such times and places and in such manner as may be prescribed by law. When a new apportionment shall be made by Congress, the general assembly shall divide the State into congressional districts accordingly.

SEC. 45. The general assembly shall provide by law for an enumeration of the inhabitants of the State in the year of our Lord 1885, and every tenth year thereafter; and at the session next following such enumeration, and also at the session next following an enumera-

tion made by the authority of the United States, shall revise and adjust the apportionment for senators and representatives on the basis of such enumeration, according to ratios to be fixed by law.

SEC. 46. The senate shall consist of twenty-six, and the house of representatives of forty-nine members, which number shall not be increased until the year of our Lord one thousand eight hundred and ninety, after which time the general assembly may increase the number of senators and representatives, preserving, as near as may be, the present proportion as to the number in each house: *Provided*, That the aggregate number of senators and representatives shall never exceed one hundred.

SEC. 47. Senatorial and representative districts may be altered from time to time, as public convenience may require. When a senatorial or representative district shall be composed of two or more counties, they shall be contiguous, and the district as compact as may be. No county shall be divided in the formation of a senatorial or representative district.

SEC. 48. Until the State shall be divided into senatorial districts, in accordance with the provisions of this article, said districts shall be constituted and numbered as follows:

The county of Weld shall constitute the first district, and be entitled to one senator.

The county of Larimer shall constitute the second district, and be entitled to one senator.

The county of Boulder shall constitute the third district, and be entitled to two senators.

The county of Gilpin shall constitute the fourth district, and be entitled to one senator.

The counties of Gilpin, Summit, and Grand shall constitute the fifth district, and be entitled to one senator.

The county of Clear Creek shall constitute the sixth district, and be entitled to two senators.

The county of Jefferson shall constitute the seventh district, and be entitled to one senator.

The county of Arapahoe shall constitute the eighth district, and be entitled to four senators.

The counties of Elbert and Bent shall constitute the ninth district, and be entitled to one senator.

The county of El Paso shall constitute the tenth district, and be entitled to one senator.

The county of Douglas shall constitute the eleventh district, and be entitled to one senator.

The county of Park shall constitute the twelfth district, and be entitled to one senator.

The counties of Lake and Saguache shall constitute the thirteenth district, and be entitled to one senator.

The county of Fremont shall constitute the fourteenth district, and be entitled to one senator.

The county of Pueblo shall constitute the fifteenth district, and be entitled to one senator.

The county of Huerfano shall constitute the sixteenth district, and be entitled to one senator.

The county of Las Animas shall constitute the seventeenth district, and be entitled to two senators.

The county of Costilla shall constitute the eighteenth district, and be entitled to one senator.

The county of Conejos shall constitute the nineteenth district, and be entitled to one senator.

The counties of Rio Grande, Hinsdale, La Plata, and San Juan shall constitute the twentieth district, and be entitled to one senator.

SEC. 49. Until an apportionment of representatives be made, in accordance with the provisions of this article, they shall be divided among the several counties of the State in the following manner: The county of Arapahoe shall have seven; the counties of Boulder and Clear Creek, each, four; the counties of Gilpin and Las Animas, each, three; the counties of El Paso, Fremont, Huerfano, Jefferson, Pueblo, and Weld, each, two; the counties of Bent, Costilla, Conejos, Douglas, Elbert, Grand, Hinsdale, Larimer, La Plata, Lake, Park, Rio Grande, Summit, Saguache, and San Juan, each, one; and the counties of Costilla and Conejos, jointly, one.

ARTICLE VI

JUDICIAL DEPARTMENT

SECTION 1. The judicial powers of the State, as to matters of law and equity, except as in this constitution otherwise provided, shall be vested in a supreme court, district courts, county courts, justices of the peace, and such other courts as may be created by law for cities and incorporated towns.

SUPREME COURT

SEC. 2. The supreme court, except as otherwise provided in this constitution, shall have appellate jurisdiction only, which shall be coextensive with the State, and shall have a general superintending control over all inferior courts, under such regulations and limitations as may be prescribed by law.

SEC. 3. It shall have power to issue writs of *habeas corpus*, *mandamus*, *quo warranto*, *certiorari*, injunction, and other original and remedial writs, with authority to hear and determine the same.

SEC. 4. At least two terms of the supreme court shall be held each year, at the seat of government.

SEC. 5. The supreme court shall consist of three judges, a majority of whom shall be necessary to form a quorum or pronounce a decision.

SEC. 6. The judges of the supreme court shall be elected by electors of the State at large, as hereinafter provided.

SEC. 7. The term of office of the judges of the supreme court, except as in this article otherwise provided, shall be nine years.

SEC. 8. The judges of the supreme court shall, immediately after the first election under this constitution, be classified by lot, so that one shall hold his office for the term of three years, one for the term of six years, and one for the term of nine years. The lot shall be drawn by the judges, who shall for that purpose assemble at the seat of government, and they shall cause the result thereof to be certified to the secretary of the Territory, and filed in his office. The judge having the shortest term to serve, not holding his office by appointment or election to fill a vacancy, shall be the chief justice, and shall

preside at all terms of the supreme court, and, in case of his absence, the judge having in like manner the next shortest term to serve shall preside in his stead.

SEC. 9. There shall be a clerk of the supreme court, who shall be appointed by the judges thereof, and shall hold his office during the pleasure of said judges, and whose duties and emoluments shall be as prescribed by law and by the rules of the supreme court.

SEC. 10. No person shall be eligible to the office of judge of the supreme court unless he be learned in the law, be at least thirty years of age, and a citizen of the United States, nor unless he shall have resided in this State or Territory at least two years next preceding his election.

DISTRICT COURTS

SEC. 11. The district courts shall have original jurisdiction of all causes, both at law and in equity, and such appellate jurisdiction as may be conferred by law. They shall have original jurisdiction to determine all controversies upon relation of any person on behalf of the people concerning the rights, duties, and liabilities of railroad, telegraph, or toll-road companies or corporations.

SEC. 12. The State shall be divided into judicial districts, in each of which there shall be elected by the electors thereof one judge of the district court therein, whose term of office shall be six years. The judges of the district courts may hold courts for each other, and shall do so when required by law.

SEC. 13. Until otherwise provided by law, said districts shall be four in number, and constituted as follows, viz:

First district.—The counties of Boulder, Jefferson, Gilpin, Clear Creek, Summit, and Grand.

Second district.—The counties of Arapahoe, Douglas, Elbert, Weld, and Larimer.

Third district.—The counties of Park, El Paso, Fremont, Pueblo, Bent, Las Animas, and Huerfano.

Fourth district.—The counties of Costilla, Conejos, Rio Grande, San Juan, La Plata, Hinsdale, Saguache, and Lake.

SEC. 14. The general assembly may, after the year 1880, (whenever two-thirds of the members of each house shall concur therein,) but not oftener than once in six years, increase the number of the judicial districts and the judges thereof; such districts shall be formed of compact territory, and bounded by county-lines; but such increase or change in the boundaries of a district shall not work the removal of any judge from his office during the term for which he shall have been elected or appointed.

SEC. 15. The judges of the district court first elected shall be chosen at the first general election. The general assembly may provide that after the year 1878 the election of the judges of the supreme, district, and county courts, and the district attorneys, or any of them, shall be on a different day from that on which an election is held for any other purpose, and for that purpose may extend or abridge the term of office of any such officers then holding, but not in any case more than six months. Until otherwise provided by law, such officers shall be elected at the time of holding the general elections. The terms of office of all judges of the district court elected in the several districts

throughout the State shall expire on the same day; and the terms of office of the district attorneys elected in the several districts throughout the State shall, in like manner, expire on the same day.

SEC. 16. No person shall be eligible to the office of district judge unless he be learned in the law, be at least thirty years old, and a citizen of the United States, nor unless he shall have resided in the State or Territory at least two years next preceding his election, nor unless he shall, at the time of his election, be an elector within the judicial district for which he is elected: *Provided*, That at the first election any person of the requisite age and learning, and who is an elector of the Territory of Colorado, under the laws thereof, at the time of the adoption of this constitution, shall be eligible to the office of judge of the district court of the judicial district within which he is an elector.

SEC. 17. The time of holding courts within the said districts shall be as provided by law; but at least one term of the district court shall be held annually in each county, except in such counties as may be attached, for judicial purposes, to another county wherein such courts are so held. This shall not be construed to prevent the holding of special terms, under such regulations as may be provided by law.

SEC. 18. The judges of the supreme and district courts shall each receive such salary as may be provided by law; and no such judge shall receive any other compensation, perquisite, or emolument for or on account of his office, in any form whatever, nor act as attorney or counselor at law.

SEC. 19. There shall be a clerk of the district court in each county wherein a term is held, who shall be appointed by the judge of the district, to hold his office during the pleasure of the judge. His duties and compensation shall be as provided by law and regulated by the rules of the court.

SEC. 20. Until the general assembly shall provide by law for fixing the terms of the courts aforesaid, the judges of the supreme and district courts, respectively, shall fix the terms thereof.

DISTRICT ATTORNEYS

SEC. 21. There shall be elected by the qualified electors of each judicial district, at each regular election for judges of the supreme court, a district attorney for such district, whose term of office shall be three years, and whose duties and compensations shall be as provided by law. No person shall be eligible to the office of district attorney who shall not, at the time of his election, be at least twenty-five years of age, and possess all the other qualifications for judges of district courts, as prescribed in this article.

COUNTY COURTS

SEC. 22. There shall be elected, at the general election in each organized county in the year 1877, and every three years thereafter, except as otherwise provided in this article, a county judge, who shall be judge of the county court of said county, whose term of office shall be three years, and whose compensation shall be as may be provided by law.

SEC. 23. County courts shall be courts of record, and shall have original jurisdiction in all matters of probate, settlement of estates of deceased persons, appointment of guardians, conservators, and ad-

ministrators, and settlement of their accounts, and such other civil and criminal jurisdiction as may be conferred by law: *Provided*, Such courts shall not have jurisdiction in any case where the debt, damage, or claim, or value of property involved, shall exceed two thousand dollars, except in cases relating to the estates of deceased persons. Appeals may be taken from county to district courts, or to the supreme court, in such cases and in such manner as may be prescribed by law. Writs of error shall lie from the supreme court to every final judgment of the county court. No appeal shall lie to the district court from any judgment given upon an appeal from a justice of the peace.

CRIMINAL COURT

SEC. 24. The general assembly shall have power to create and establish a criminal court in each county having a population exceeding fifteen thousand, which court may have concurrent jurisdiction with the district courts in all criminal cases not capital, the terms of such courts to be as provided by law.

JUSTICES OF THE PEACE

SEC. 25. Justices of the peace shall have such jurisdiction as may be conferred by law; but they shall not have jurisdiction of any case wherein the value of the property, or the amount in controversy, exceeds the sum of three hundred dollars, nor where the boundaries or title to real property shall be called in question.

POLICE MAGISTRATES

SEC. 26. The general assembly shall have power to provide for creating such police magistrates for cities and towns, as may be deemed from time to time necessary or expedient, who shall have jurisdiction of all cases arising under the ordinances of such cities and towns respectively.

MISCELLANEOUS

SEC. 27. The judges of courts of record, inferior to the supreme court, shall, on or before the first day in July in each year, report in writing to the judges of the supreme court such defects and omissions in the laws as their knowledge and experience may suggest, and the judges of the supreme court shall, on or before the first day of December of each year, report in writing to the governor, to be by him transmitted to the general assembly, together with his message, such defects and omissions in the constitution and laws as they may find to exist, together with appropriate bills for curing the same.

SEC. 28. All laws relating to courts shall be general and of uniform operation throughout the State; and the organization, jurisdiction, powers, proceedings, and practice of all the courts of the same class or grade, so far as regulated by law, and the force and effect of the proceedings, judgments, and decrees of such courts severally, shall be uniform.

SEC. 29. All officers provided for in this article, excepting judges of the supreme court, shall respectively reside in the district, county, precinct, city, or town for which they may be elected or appointed. Vacancies in elective offices shall be filled by election, but when the

unexpired term does not exceed one year, the vacancy shall be filled by appointment, as follows: Of judges of the supreme and district courts, by the governor; of district attorneys, by the judge of the court of which the office appertains, and of all other judicial officers by the board of county commissioners of the county where the vacancy occurs.

SEC. 30. All process shall run in the name of "The people of the State of Colorado;" all prosecutions shall be carried on in the name and by the authority of "The people of the State of Colorado," and conclude, "against the peace and dignity of the same."

ARTICLE VII

SUFFRAGE AND ELECTIONS

SECTION 1. Every male person over the age of 21 years, possessing the following qualifications, shall be entitled to vote at all elections:

First. He shall be a citizen of the United States, or, not being a citizen of the United States, he shall have declared his intention, according to law, to become such citizen, not less than four months before he offers to vote.

Second. He shall have resided in the State six months immediately preceding the election at which he offers to vote, and in the county, city, town, ward, or precinct, such time as may be prescribed by law: *Provided*, That no person shall be denied the right to vote at any school-district election, nor to hold any school-district office, on account of sex.

SEC. 2. The general assembly shall, at the first session thereof, and may at any subsequent session, enact laws to extend the right of suffrage to women of lawful age, and otherwise qualified according to the provisions of this article. No such enactment shall be of effect until submitted to the vote of the qualified electors at a general election, nor unless the same be approved by a majority of those voting thereon.

SEC. 3. The general assembly may prescribe, by law, an educational qualification for electors, but no such law shall take effect prior to the year of our Lord one thousand eight hundred and ninety, and no qualified elector shall be thereby disqualified.

SEC. 4. For the purpose of voting and eligibility to office, no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence, while in the civil or military service of the State, or of the United States, nor while a student at any institution of learning, nor while kept at public expense in any poor-house or other asylum, nor while confined in public prison.

SEC. 5. Voters shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning therefrom.

SEC. 6. No person except a qualified elector shall be elected or appointed to any civil or military office in the State.

SEC. 7. The general election shall be held on the first Tuesday of October, in the years of our Lord eighteen hundred and seventy-six, eighteen hundred and seventy-seven, and eighteen hundred and seventy-eight, and annually thereafter on such day as may be prescribed by law.

SEC. 8. All elections by the people shall be by ballot; every ballot voted shall be numbered in the order in which it shall be received, and the number be recorded by the election-officers on the list of voters opposite the name of the voter who presents the ballot. The election-officers shall be sworn or affirmed not to inquire or disclose how any elector shall have voted. In all cases of contested elections, the ballots cast may be counted, compared with the list of voters, and examined, under such safeguards and regulations as may be prescribed by law.

SEC. 9. In trials of contested elections, and for offences arising under the election-law, no person shall be permitted to withhold his testimony on the ground that it may criminate himself, or subject him to public infamy; but such testimony shall not be used against him in any judicial proceedings, except for perjury in giving such testimony.

SEC. 10. No person while confined in any public prison shall be entitled to vote; but every such person who was a qualified elector prior to such imprisonment, and who is released therefrom by virtue of a pardon, or by virtue of having served out his full term of imprisonment, shall, without further action, be invested with all the rights of citizenship, except as otherwise provided in this constitution.

SEC. 11. The general assembly shall pass laws to secure the purity of elections and guard against abuses of the elective franchise.

SEC. 12. The general assembly shall, by general law, designate the courts and judges by whom the several classes of election contests, not herein provided for, shall be tried, and regulate the manner of trial, and all matters incident thereto; but no such law shall apply to any contest arising out of an election held before its passage.

ARTICLE VIII

STATE INSTITUTIONS

SECTION 1. Educational, reformatory, and penal institutions, and those for the benefit of the insane, blind, deaf and mute, and such other institutions as the public good may require, shall be established and supported by the State, in such manner as may be prescribed by law.

SEC. 2. The general assembly shall have no power to change or to locate the seat of government of the State, but shall at its first session subsequent to the year of our Lord one thousand eight hundred and eighty, provide by law for submitting the question of the permanent location of the seat of government to the qualified electors of the State, at the general election then next ensuing, and a majority of all the votes upon said question, cast at said election, shall be necessary to determine the location thereof. Said general assembly shall also provide that in case there shall be no choice of location at said election, the question of choice between the two places for which the highest number of votes shall have been cast, shall be submitted in like manner to the qualified electors of the State, at the next general election: *Provided*, That until the seat of government shall have been permanently located as herein provided, the temporary location thereof shall remain at the city of Denver.

SEC. 3. When the seat of government shall have been located as

herein provided, the location thereof shall not thereafter be changed except by a vote of two-thirds of all the qualified electors of the State voting on that question, at a general election, at which the question of location of the seat of government shall have been submitted by the general assembly.

SEC. 4. The general assembly shall make no appropriation or expenditures for capitol buildings or grounds until the seat of government shall have been permanently located as herein provided.

SEC. 5. The following territorial institutions, to wit, The University at Boulder, the Agricultural College at Fort Collins, the School of Mines at Golden, the Institute for the Education of Mutes at Colorado Springs, shall, upon the adoption of this constitution, become institutions of the State of Colorado, and the management thereof subject to the control of the State, under such laws and regulations as the general assembly shall provide; and the location of said institutions, as well as all gifts, grants, and appropriations of money and property, real and personal, heretofore made to said several institutions, are hereby confirmed to the use and benefit of the same respectively: *Provided*, This section shall not apply to any institution, the property, real or personal, of which is now vested in the trustees thereof, until such property be transferred by proper conveyance, together with the control thereof, to the officers provided for the management of said institution by this constitution or by law.

ARTICLE IX

EDUCATION

SECTION 1. The general supervision of the public schools of the State shall be vested in a board of education, whose powers and duties shall be prescribed by law; the superintendent of public instruction, the secretary of state, and attorney-general shall constitute the board, of which the superintendent of public instruction shall be president.

SEC. 2. The general assembly shall, as soon as practicable, provide for the establishment and maintenance of a thorough and uniform system of free public schools throughout the State wherein all residents of the State between the ages of six and twenty-one years may be educated gratuitously. One or more public schools shall be maintained in each school-district within the State at least three months in each year; any school-district failing to have such school shall not be entitled to receive any portion of the school-fund for that year.

SEC. 3. The public-school fund of the State shall forever remain inviolate and intact; the interest thereon only shall be expended in the maintenance of the schools of the State, and shall be distributed among the several counties and school-districts of the State in such manner as may be prescribed by law. No part of this fund, principal or interest, shall ever be transferred to any other fund, or used or appropriated except as herein provided. The State treasurer shall be the custodian of this fund, and the same shall be securely and profitably invested as may be by law directed. The State shall supply all losses thereof that may in any manner occur.

SEC. 4. Each county treasurer shall collect all school-funds belonging to his county, and the several school-districts therein, and dis-

burse the same to the proper districts upon warrants drawn by the county superintendent, or by the proper district authorities as may be provided by law.

SEC. 5. The public-school fund of the State shall consist of the proceeds of such lands as have heretofore been, or may hereafter be, granted to the State by the General Government for educational purposes; all estates that may escheat to the State; also all other grants, gifts, or devises that may be made to this State for educational purposes.

SEC. 6. There shall be a county superintendent of schools in each county whose term of office shall be two years, and whose duties, qualifications, and compensation shall be prescribed by law. He shall be *ex officio* commissioner of lands within his county, and shall discharge the duties of said office under the direction of the State board of land commissioners, as directed by law.

SEC. 7. Neither the general assembly, nor any county, city, town, township, school-district, or other public corporation shall ever make any appropriation, or pay from any public fund or moneys whatever, anything in aid of any church or sectarian society, or for any sectarian purpose, or to help support or sustain any school, academy, seminary, college, university, or other literary or scientific institution controlled by any church or sectarian denomination whatsoever; nor shall any grant or donation of land, money, or other personal property ever be made by the State, or any such public corporation, to any church or for any sectarian purpose.

SEC. 8. No religious test or qualification shall ever be required of any person as a condition of admission into any public educational institution of the State, either as teacher or student; and no teacher or student of any such institution shall ever be required to attend or participate in any religious service whatever. No sectarian tenets or doctrines shall ever be taught in the public schools, nor shall any distinction or classification of pupils be made on account of race or color.

SEC. 9. The governor, superintendent of public instruction, secretary of state, and attorney-general shall constitute the State board of land commissioners, who shall have the direction, control, and disposition of the public lands of the State, under such regulations as may be prescribed by law.

SEC. 10. It shall be the duty of the State board of land commissioners to provide for the location, protection, sale, or other disposition of all the lands heretofore, or which may hereafter be, granted to the State by the General Government, under such regulations as may be prescribed by law, and in such manner as will secure the maximum possible amount therefor. No law shall ever be passed by the general assembly granting any privileges to persons who may have settled upon any such public lands subsequent to the survey thereof by the General Government, by which the amount to be derived by the sale, or other disposition of such lands, shall be diminished, directly or indirectly. The general assembly shall, at the earliest practicable period, provide by law that the several grants of land made by Congress to the State shall be judiciously located and carefully preserved and held in trust subject to disposal for the use and benefit of the respective objects for which said grants of land were made, and the general assembly shall provide for the sale of

said lands from time to time, and for the faithful application of the proceeds thereof in accordance with the terms of said grants.

SEC. 11. The general assembly may require, by law, that every child of sufficient mental and physical ability shall attend the public school during the period between the ages of six and eighteen years, for a time equivalent to three years, unless educated by other means.

SEC. 12. There shall be elected by the qualified electors of the State, at the first general election under this constitution, six regents of the university, who shall, immediately after their election, be so classified, by lot, that two shall hold their office for the term of two years, two for four years, and two for six years; and every two years after the first election there shall be elected two regents of the university, whose term of office shall be six years. The regents thus elected, and their successors, shall constitute a body-corporate, to be known by the name and style of "The Regents of the University of Colorado."

SEC. 13. The regents of the university shall, at their first meeting, or as soon thereafter as practicable, elect a president of the university, who shall hold his office until removed by the board of regents for cause; he shall be *ex officio* a member of the board, with the privilege of speaking, but not of voting, except in cases of a tie; he shall preside at the meetings of the board, and be the principal executive officer of the university, and a member of the faculty thereof.

SEC. 14. The board of regents shall have the general supervision of the university, and the exclusive control and direction of all the funds of, and appropriations to, the university.

SEC. 15. The general assembly shall, by law, provide for organization of school districts of convenient size, in each of which shall be established a board of education, to consist of three or more directors, to be elected by the qualified electors of the district. Said directors shall have control of instruction in the public schools of their respective districts.

SEC. 16. Neither the general assembly nor the State board of education shall have power to prescribe text-books to be used in the public schools.

ARTICLE X

REVENUE

SECTION 1. The fiscal year shall commence on the first day of October in each year, unless otherwise provided by law.

SEC. 2. The general assembly shall provide by law for an annual tax sufficient, with other resources, to defray the estimated expenses of the State government for each fiscal year.

SEC. 3. All taxes shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws, which shall prescribe such regulations as shall secure a just valuation for taxation of all property, real and personal: *Provided*, That mines and mining-claims bearing gold, silver, and other precious metals, (except the net proceeds and surface improvements thereof,) shall be exempt from taxation for the period of ten years from the date of the adoption of this constitution, and thereafter may be taxed as provided by law. Ditches, canals, and flumes owned and used by individuals or corpora-

tions for irrigating lands owned by such individuals or corporations, or the individual members thereof, shall not be separately taxed so long as they shall be owned and used exclusively for such purpose.

SEC. 4. The property, real and personal, of the State, counties, cities, towns, and other municipal corporations, and public libraries, shall be exempt from taxation.

SEC. 5. Lots, with the buildings thereon, if said buildings are used solely and exclusively for religious worship, for schools, or for strictly charitable purposes, also cemeteries not used or held for private or corporate profit, shall be exempt from taxation, unless otherwise provided by general law.

SEC. 6. All laws exempting from taxation property other than that hereinbefore mentioned shall be void.

SEC. 7. The general assembly shall not impose taxes for the purposes of any county, city, town, or other municipal corporation, but may, by law, vest in the corporate authorities thereof respectively the power to assess and collect taxes for all purposes of such corporation.

SEC. 8. No county, city, town, or other municipal corporation, the inhabitants thereof, nor the property therein, shall be released or discharged from their, or its, proportionate share of taxes to be levied for State purposes.

SEC. 9. The power to tax corporations and corporate property, real and personal, shall never be relinquished or suspended.

SEC. 10. All corporations in this State, or doing business therein, shall be subject to taxation for State, county, school, municipal, and other purposes, on the real and personal property owned or used by them within the territorial limits of the authority levying the tax.

SEC. 11. The rate of taxation on property, for State purposes, shall never exceed six mills on each dollar of valuation; and whenever the taxable property within the State shall amount to one hundred million dollars the rate shall not exceed four mills on each dollar of valuation; and whenever the taxable property within the State shall amount to three hundred million dollars the rate shall never thereafter exceed two mills on each dollar of valuation, unless a proposition to increase such rate, specifying the rate proposed, and the time during which the same shall be levied, be first submitted to a vote of such of the qualified electors of the State as in the year next preceding such election shall have paid a property-tax assessed to them within the State, and a majority of those voting thereon shall vote in favor thereof, in such manner as may be provided by law.

SEC. 12. The treasurer shall keep a separate account of each fund in his hands, and shall, at the end of each quarter of the fiscal year, report to the governor in writing, under oath, the amount of all moneys in his hands to the credit of every such fund, and the place where the same are kept or deposited, and the number and amount of every warrant received, and the number and amount of every warrant paid therefrom during the quarter. Swearing falsely to any such report shall be deemed perjury. The governor shall cause every such report to be immediately published in at least one newspaper printed at the seat of government, and otherwise as the general assembly may require. The general assembly may provide by law further regulations for the safe-keeping and management of

the public funds in the hands of the treasurer; but notwithstanding any such regulation, the treasurer and his sureties shall in all cases be held responsible therefor.

Sec. 13. The making of profit, directly or indirectly, out of State, county, city, town or school-district money, or using the same for any purpose not authorized by law, by any public officer, shall be deemed a felony, and shall be punished as provided by law.

Sec. 14. Private property shall not be taken or sold for the payment of the corporate debt of municipal corporations.

Sec. 15. There shall be a State board of equalization, consisting of the governor, State auditor, State treasurer, secretary of state, and attorney-general; also, in each county of this State, a county board of equalization, consisting of the board of county commissioners of said county. The duty of the State board of equalization shall be to adjust and equalize the valuation of real and personal property among the several counties of the State. The duty of the county board of equalization shall be to adjust and equalize the valuation of real and personal property within their respective counties. Each board shall also perform such other duties as may be prescribed by law.

Sec. 16. No appropriation shall be made, nor any expenditure authorized by the general assembly, whereby the expenditure of the State, during any fiscal year, shall exceed the total tax then provided for by law and applicable for such appropriation or expenditure, unless the general assembly making such appropriation shall provide for levying a sufficient tax, not exceeding the rates allowed in section eleven of this article, to pay such appropriation or expenditure within such fiscal year. This provision shall not apply to appropriations or expenditures to suppress insurrection, defend the State, or assist in defending the United States in time of war.

Article XI

PUBLIC INDEBTEDNESS

Section 1. Neither the State, nor any county, city, town, township, or school-district shall lend or pledge the credit or faith thereof, directly or indirectly, in any manner to, or in aid of, any person, company, or corporation, public or private, for any amount or for any purpose whatever, or become responsible for any debt, contract, or liability of any person, company, or corporation, public or private, in or out of the State.

Sec. 2. Neither the State, nor any county, city, town, township, or school-district shall make any donation or grant to, or in aid of, or become a subscriber to, or shareholder in, any corporation or company, or a joint owner with any person, company, or corporation, public or private, in or out of the State, except as to such ownership as may accrue to the State by escheat, or by forfeiture, by operation or provision of law; and except as to such ownership as may accrue to the State, or to any county, city, town, township, or school-district, or to either or any of them, jointly with any person, company, or corporation, by forfeiture or sale of real estate for non-payment of taxes, or by donation or devise for public use, or by purchase by or on behalf of any or either of them, jointly with any or either of them,

under execution in cases of fine, penalties, or forfeiture of recognizance, breach of condition of official bond, or of bond to secure public moneys, or the performance of any contract in which they or any of them may be jointly or severally interested.

SEC. 3. The State shall not contract any debt by loan, in any form, except to provide for casual deficiencies of revenue, erect public buildings for use of the State, suppress insurrection, defend the State, or, in time of war, assist in defending the United States; and the amount of debt contracted in any one year to provide for deficiencies of the revenue shall not exceed one-fourth of a mill on each dollar of valuation of taxable property within the State, and the aggregate amount of such debt shall not at any time exceed three-fourths of a mill on each dollar of said valuation until the valuation shall equal one hundred millions of dollars, and thereafter such debt shall not exceed one hundred thousand dollars, and the debt incurred in any one year for erection of public buildings shall not exceed one-half mill on each dollar of said valuation, and the aggregate amount of such debt shall never at any time exceed the sum of fifty thousand dollars, (except as provided in section five of this article;) and in all cases the valuation in this section mentioned shall be that of the assessment last preceding the creation of said debt.

SEC. 4. In no case shall any debt above mentioned in this article be created, except by a law which shall be irrepealable, until the indebtedness therein provided for shall have been fully paid or discharged; such law shall specify the purposes to which the funds so raised shall be applied, and provide for the levy of a tax sufficient to pay the interest on, and extinguish the principal of, such debt within the time limited by such law for the payment thereof, which, in the case of debts contracted for the erection of public buildings and supplying deficiencies of revenue, shall not be less than ten nor more than fifteen years; and the funds arising from the collection of any such tax shall not be applied to any other purpose than that provided in the law levying the same; and when the debt thereby created shall be paid or discharged such tax shall cease, and the balance, if any, to the credit of the fund, shall immediately be placed to the credit of the general fund of the State.

SEC. 5. A debt for the purpose of erecting public buildings may be created by law, as provided for in section four of this article, not exceeding in the aggregate three mills on each dollar of said valuation: *Provided*, That before going into effect such law shall be ratified by the vote of a majority of such qualified electors of the State as shall vote thereon at a general election, under such regulations as the general assembly may prescribe.

SEC. 6. No county shall contract any debt by loan in any form, except for the purpose of erecting necessary public buildings, making or repairing public roads and bridges; and such indebtedness contracted in any one year shall not exceed the rates upon the taxable property in such county following, to wit: counties in which the assessed valuation of taxable property shall exceed five millions of dollars, one dollar and fifty cents on each thousand dollars thereof; counties in which such valuation shall be less than five millions of dollars, three dollars on each thousand dollars thereof; and the aggregate amount of indebtedness of any county, for all purposes, exclusive of debts contracted before the adoption of this constitution, shall not

at any time exceed twice the amount above herein limited, unless when, in manner provided by law, the question of incurring such debt shall, at a general election, be submitted to such of the qualified electors of such county as in the year last preceding such election shall have paid a tax upon property assessed to them in such county, and a majority of those voting thereon shall vote in favor of incurring the debt; but the bonds, if any be issued therefor, shall not run less than ten years; and the aggregate amount of debt so contracted shall not at any time exceed twice the rate upon the valuation last herein mentioned: *Provided*, That this section shall not apply to counties having a valuation of less than one million of dollars.

Sec. 7. No debt by loan in any form shall be contracted by any school-district for the purpose of erecting and furnishing school-buildings or purchasing grounds, unless the proposition to create such debt shall first be submitted to such qualified electors of the districts as shall have paid a school-tax therein in the year next preceding such election, and a majority of those voting thereon shall vote in favor of incurring such debt.

Sec. 8. No city or town shall contract any debt by loan in any form, except by means of an ordinance, which shall be irrepealable until the indebtedness therein provided for shall have been fully paid or discharged, specifying the purposes to which the funds to be raised shall be applied, and providing for the levy of a tax, not exceeding twelve mills on each dollar of valuation of taxable property within such city or town, sufficient to pay the annual interest and extinguish the principal of such debt within fifteen, but not less than ten, years from the creation thereof; and such tax, when collected, shall be applied only to the purposes in such ordinance specified until the indebtedness shall be paid or discharged; but no such debt shall be created unless the question of incurring the same shall, at a regular election for councilmen, aldermen, or officers of such city or town, be submitted to a vote of such qualified electors thereof as shall, in the year next preceding, have paid a property-tax therein, and a majority of those voting on the question, by ballot deposited in a separate ballot-box, shall vote in favor of creating such debt; but the aggregate amount of debt so created, together with the debt existing at the time of such election, shall not at any time exceed three per cent. of the valuation last aforesaid. Debts contracted for supplying water to such city or town are excepted from the operation of this section. The valuation in this section mentioned shall be in all cases that of the assessment next preceding the last assessment before the adoption of such ordinance.

Sec. 9. Nothing contained in this article shall be so construed as to either impair or add to the obligation of any debt heretofore contracted by any county, city, town, or school-district in accordance with the laws of Colorado Territory, or prevent the contracting of any debt, or the issuing of bonds therefor, in accordance with said laws, upon any proposition for that purpose which may have been, according to said laws, submitted to a vote of the qualified electors of any county, city, town, or school-district before the day on which this constitution takes effect.

Article XII

OFFICERS

Section 1. Every person holding any civil office under the State or any municipality therein shall, unless removed according to law, exercise the duties of such office until his successor is duly qualified; but this shall not apply to members of the general assembly, nor to members of any board or assembly two or more of whom are elected at the same time; the general assembly may by law provide for suspending any officer in his functions pending impeachment or prosecution for misconduct in office.

Sec. 2. No person shall hold any office or employment of trust or profit, under the laws of the State or any ordinance of any municipality therein, without devoting his personal attention to the duties of the same.

Sec. 3. No person who is now or hereafter may become a collector or receiver of public money, or the deputy or assistant of such collector or receiver, and who shall have become a defaulter in his office, shall be eligible to or assume the duties of any office of trust or profit in this State, under the laws thereof, or of any municipality therein, until he shall have accounted for and paid over all public money for which he may be accountable.

Sec. 4. No person hereafter convicted of embezzlement of public moneys, bribery, perjury, solicitation of bribery, or subornation of perjury, shall be eligible to the general assembly, or capable of holding any office of trust or profit in this State.

Sec. 5. The district court of each county shall, at each term thereof, specially give in charge to the grand jury, if there be one, the laws regulating the accountability of the county treasurer, and shall appoint a committee of such grand jury, or of other reputable persons, not exceeding five, to investigate the official accounts and affairs of the treasurer of such county, and report to the court the condition thereof. The judge of the district court may appoint a like committee in vacation at any time, but not oftener than once in every three months. The district court of the county wherein the seat of government may be shall have the like power to appoint committees to investigate the official accounts and affairs of the State treasurer and the auditor of State.

Sec. 6. Any civil officer or member of the general assembly who shall solicit, demand, or receive, or consent to receive, directly or indirectly, for himself or for another, from any company, corporation, or person, any money, office, appointment, employment, testimonial, reward, thing of value or enjoyment, or of personal advantage or promise thereof, for his vote, official influence, or action, or for withholding the same, or with an understanding that his official influence or action shall be in any way influenced thereby, or who shall solicit or demand any such money or advantage, matter, or thing aforesaid for another, as the consideration of his vote, official influence, or action, or for withholding the same, or shall give or withhold his vote, official influence, or action in consideration of the payment or promise of such money, advantage, matter, or thing to another, shall be held guilty of bribery, or solicitation of bribery, as the case may be, within the meaning of this constitution, and shall incur the disabili-

ties provided thereby for such offence, and such additional punishment as is or shall be prescribed by law.

SEC. 7. Every member of the general assembly shall, before he enters upon his official duties, take an oath or affirmation to support the Constitution of the United States and of the State of Colorado, and to faithfully perform the duties of his office according to the best of his ability. This oath, or affirmation, shall be administered in the hall of the house to which the member shall have been elected.

SEC. 8. Every civil officer, except members of the general assembly and such inferior officers as may be by law exempted, shall, before he enters upon the duties of his office, take and subscribe an oath or affirmation to support the Constitution of the United States and the State of Colorado, and to faithfully perform the duties of the office upon which he shall be about to enter.

SEC. 9. Officers of the executive department and judges of the supreme and district courts, and district attorneys, shall file their oaths of office with the secretary of state; every other officer shall file his oath of office with the county clerk of the county wherein he shall have been elected.

SEC. 10. If any person elected or appointed to any office shall refuse or neglect to qualify therein within the time prescribed by law, such office shall be deemed vacant.

SEC. 11. The term of office of any officer elected to fill a vacancy shall terminate at the expiration of the term during which the vacancy occurred.

SEC. 12. No person who shall hereafter fight a duel, or assist in the same as a second, or send, accept, or knowingly carry a challenge therefor, or agree to go out of the State to fight a duel, shall hold any office in the State.

ARTICLE XIII

IMPEACHMENTS

SECTION 1. The house of representatives shall have the sole power of impeachment. The concurrence of a majority of all the members shall be necessary to an impeachment. All impeachments shall be tried by the Senate, and, when sitting for that purpose, the senators shall be upon oath or affirmation to do justice according to law and evidence. When the governor or lieutenant governor is on trial, the chief-justice of the supreme court shall preside. No person shall be convicted without a concurrence of two-thirds of the senators elected.

SEC. 2. The governor and other State and judicial officers, except county judges and justices of the peace, shall be liable to impeachment for high crimes or misdemeanors, or malfeasance in office, but judgment in such cases shall only extend to removal from office and disqualification to hold any office of honor, trust, or profit in the State. The party, whether convicted or acquitted, shall, nevertheless, be liable to prosecution, trial, judgment, and punishment according to law.

SEC. 3. All officers not liable to impeachment shall be subject to removal for misconduct or malfeasance in office, in such manner as may be provided by law.

Article XIV

COUNTIES

Section 1. The several counties of the Territory of Colorado, as they now exist, are hereby declared to be counties of the State.

Sec. 2. The general assembly shall have no power to remove the county-seat of any county, but the removal of county-seats shall be provided for by general law, and no county-seat shall be removed unless a majority of the qualified electors of the county, voting on the proposition at a general election, vote therefor; and no such proposition shall be submitted oftener than once in four years, and no person shall vote on such proposition who shall not have resided in the county six months and in the election-precinct ninety days next preceding such election.

Sec. 3. No part of the territory of any county shall be stricken off and added to an adjoining county without first submitting the question to the qualified voters of the county from which the territory is proposed to be stricken off; nor unless a majority of all the qualified voters of said county voting on the question shall vote therefor.

Sec. 4. In all cases of the establishment of any new county, the new county shall be held to pay its ratable proportion of all then existing liabilities of the county or counties from which such new county shall be formed.

Sec. 5. When any part of a county is stricken off and attached to another county, the part stricken off shall be held to pay its ratable proportion of all then existing liabilities of the county from which it is taken.

COUNTY OFFICERS

Sec. 6. In each county there shall be elected for the term of three years three county commissioners, who shall hold sessions for the transaction of county business as provided by law, any two of whom shall constitute a quorum for the transaction of business. One of said commissioners shall be elected on the first Tuesday of October, eighteen hundred and seventy-six, and every year thereafter one such officer shall be elected in each county, at the general election, for the term of three years: *Provided*, That when the population of any county shall exceed ten thousand, the board of county commissioners may consist of five members, who shall be elected as provided by law, any three of whom shall constitute a quorum for the transaction of business.

Sec. 7. The compensation of all county and precinct officers shall be as provided by law.

Sec. 8. There shall be elected in each county, on the first Tuesday of October, in the year one thousand eight hundred and seventy-seven, and every alternate year forever thereafter, one county clerk, who shall be *ex officio* recorder of deeds and clerk of the board of county commissioners; one sheriff; one coroner; one treasurer, who shall be collector of taxes; one county superintendent of schools; one county surveyor, and one county assessor.

Sec. 9. In case of a vacancy occurring in the office of county commissioner, the governor shall fill the same by appointment; and in the case of a vacancy in any other county office, or in any precinct office,

the board of county commissioners shall fill the same by appointment; and the person appointed shall hold the office until the next general election, or until the vacancy be filled by election according to law.

Sec. 10. No person shall be eligible to any county office unless he be a qualified elector; nor unless he shall have resided in the county one year preceding his election.

Sec. 11. There shall, at the first election at which county officers are chosen, and annually thereafter, be elected in each precinct one justice of the peace and one constable, who shall each hold his office for the term of two years: *Provided*, That in precincts containing five thousand or more inhabitants, the number of justices and constables may be increased as provided by law.

Sec. 12. The general assembly shall provide for the election or appointment of such other county, township, precinct, and municipal officers as public convenience may require; and their terms of office shall be as prescribed by law, not in any case to exceed two years.

Sec. 13. The general assembly shall provide, by general laws, for the organization and classification of cities and towns. The number of such classes shall not exceed four, and the powers of each class shall be defined by general laws, so that all municipal corporations of the same class shall possess the same powers, and be subject to the same restrictions.

Sec. 14. The general assembly shall also make provision, by general law, whereby any city, town, or village, incorporated by any special or local law, may elect to become subject to, and be governed by, the general law relating to such corporations.

Sec. 15. For the purpose of providing for and regulating the compensation of county and precinct officers, the general assembly shall, by law, classify the several counties of the State according to population, and shall grade and fix the compensation of the officers within the respective classes according to the population thereof. Such law shall establish scales of fees to be charged and collected by such of the county and precinct officers as may be designated therein, for services to be performed by them respectively; and where salaries are provided the same shall be payable only out of the fees actually collected in all cases where fees are prescribed. All fees, perquisites, and emoluments, above the amount of such salaries, shall be paid into the county treasury.

Article XV

CORPORATIONS

Section 1. All existing charters or grants of special or exclusive privileges, under which the corporators or grantees shall not have organized and commenced business in good faith at the time of the adoption of this constitution, shall thereafter have no validity.

Sec. 2. No charter of incorporations shall be granted, extended, changed, or amended by special law, except for such municipal, charitable, educational, penal, or reformatory corporations as are or may be under the control of the State; but the general assembly shall provide by general laws for the organization of corporations hereafter to be created.

Sec. 3. The general assembly shall have the power to alter, revoke,

or annul any charter of incorporation now existing and revocable at the adoption of this constitution, or any that may hereafter be created, whenever in their opinion it may be injurious to the citizens of the State, in such manner, however, that no injustice shall be done to the corporators.

SEC. 4. All railroads shall be public highways, and all railroad companies shall be common carriers. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any designated points within this State, and to connect at the State line with railroads of other States and Territories. Every railroad company shall have the right with its road to intersect, connect with, or cross any other railroad.

SEC. 5. No railroad corporation, or the lessees or managers thereof, shall consolidate its stock, property, or franchises with any other railroad corporation owning or having under its control a parallel or competing line.

SEC. 6. All individuals, associations, and corporations shall have equal rights to have persons and property transported over any railroad in this State, and no undue or unreasonable discrimination shall be made in charges or in facilities for transportation of freight or passengers within the State, and no railroad company, nor any lessee, manager, or employé thereof, shall give any preference to individuals, associations, or corporations in furnishing cars or motive-power.

SEC. 7. No railroad or other transportation company in existence at the time of the adoption of this constitution shall have the benefit of any future legislation without first filing in the office of the secretary of state an acceptance of the provisions of this constitution in binding form.

SEC. 8. The right of eminent domain shall never be abridged, nor so construed as to prevent the general assembly from taking the property and franchises of incorporated companies and subjecting them to public use, the same as the property of individuals; and the police powers of the State shall never be abridged, or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals or the general well-being of the State.

SEC. 9. No corporation shall issue stocks or bonds, except for labor done, services performed, or money or property actually received, and all fictitious increase of stock and indebtedness shall be void. The stock of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding a majority of the stock, first obtained at a meeting held after at least thirty days' notice given in pursuance of law.

SEC. 10. No foreign corporation shall do any business in this State without having one or more known places of business, and an authorized agent or agents in the same upon whom process may be served.

SEC. 11. No street railroad shall be constructed within any city, town, or incorporated village without the consent of the local authorities having the control of the street or highway proposed to be occupied by such street-railroad.

SEC. 12. The general assembly shall pass no law for the benefit of a railroad or other corporation, or any individual or association of

individuals, retrospective in its operation, or which imposes on the people of any county or municipal subdivision of the State a new liability in respect to transactions or considerations already past.

Sec. 13. Any association or corporation, or the lessees or managers thereof, organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph within this State, and to connect the same with other lines; and the general assembly shall, by general law of uniform operation, provide reasonable regulations to give full effect to this section. No telegraph company shall consolidate with, or hold a controlling interest in, the stock or bonds of any other telegraph company owning or having the control of a competing line, or acquire, by purchase or otherwise, any other competing line of telegraph.

Sec. 14. If any railroad, telegraph, express, or other corporation organized under any of the laws of this State shall consolidate, by sale or otherwise, with any railroad, telegraph, express, or other corporation organized under any laws of any other State or Territory, or of the United States, the same shall not thereby become a foreign corporation, but the courts of this State shall retain jurisdiction over that part of the corporate property within the limits of the State in all matters which may arise, as if said consolidation had not taken place.

Sec. 15. It shall be unlawful for any person, company, or corporation to require of its servants or employés, as a condition of their employment or otherwise, any contract or agreement whereby such person, company, or corporation shall be released or discharged from liability or responsibility on account of personal injuries received by such servants or employés while in the service of such person, company, or corporation by reason of the negligence of such person, company, or corporation, or the agents or employés thereof; and such contracts shall be absolutely null and void.

Article XVI

Mining and Irrigation

Mining

Section 1. There shall be established and maintained the office of commissioner of mines, the duties and salary of which shall be prescribed by law. When said office shall be established the governor shall, with the advice and consent of the Senate, appoint thereto a person known to be competent, whose term of office shall be four years.

Sec. 2. The general assembly shall provide by law for the proper ventilation of mines, the construction of escapement-shafts, and such other appliances as may be necessary to protect the health and secure the safety of the workmen therein, and shall prohibit the employment in the mines of children under twelve years of age.

Sec. 3. The general assembly may make such regulations from time to time as may be necessary for the proper and equitable drainage of mines.

Sec. 4. The general assembly may provide that the science of mining and metallurgy be taught in one or more of the institutions of learning under the patronage of the State.

IRRIGATION

SEC. 5. The water of every natural stream not heretofore appropriated within the State of Colorado is hereby declared to be the property of the public; and the same is dedicated to the use of the people of the State, subject to appropriation as hereinafter provided.

SEC. 6. The right to divert the unappropriated waters of any natural stream to beneficial uses shall never be denied. Priority of appropriation shall give the better right as between those using the water for the same purpose; but when the waters of any natural stream are not sufficient for the service of all those desiring the use of the same, those using the water for domestic purposes shall have the preference over those claiming for any other purpose, and those using the water for agricultural purposes shall have preference over those using the same for manufacturing purposes.

SEC. 7. All persons and corporations shall have the right of way across public, private, and corporate lands for the construction of ditches, canals, and flumes for the purpose of conveying water for domestic purposes, for the irrigation of agricultural lands, and for mining and manufacturing purposes, and for drainage, upon payment of just compensation.

SEC. 8. The general assembly shall provide by law that the board of county commissioners, in their respective counties, shall have power, when application is made to them by either party interested, to establish reasonable maximum rates to be charged for the use of water, whether furnished by individuals or corporations.

ARTICLE XVII

MILITIA

SECTION 1. The militia of the State shall consist of all able-bodied male residents of the State between the ages of eighteen and forty-five years, except such persons as may be exempted by the laws of the United States or of the State.

SEC. 2. The organization, equipment, and discipline of the militia shall conform, as nearly as practicable, to the regulations for the government of the armies of the United States.

SEC. 3. The governor shall appoint all general, field, and staff officers, and commission them. Each company shall elect its own officers, who shall be commissioned by the governor; but if any company shall fail to elect such officers within the time prescribed by law, they may be appointed by the governor.

SEC. 4. The general assembly shall provide for the safe-keeping of the public arms, military records, relics, and banners of the State.

SEC. 5. No person having conscientious scruples against bearing arms shall be compelled to do militia duty in time of peace: *Provided*, Such person shall pay an equivalent for such exemption.

ARTICLE XVIII

MISCELLANEOUS

SECTION 1. The general assembly shall pass liberal homestead and exemption laws.

SEC. 2. The general assembly shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale of lottery or gift-enterprise tickets in this State.

Sec. 3. It shall be the duty of the general assembly to pass such laws as may be necessary and proper to decide differences by arbitrators, to be appointed by mutual agreement of the parties to any controversy, who may choose that mode of adjustment. The powers and duties of such arbitrators shall be as prescribed by law.

Sec. 4. The term felony, wherever it may occur in this constitution or the laws of the State, shall be construed to mean any criminal offence punishable by death or imprisonment in the penitentiary, and none other.

Sec. 5. The general assembly shall prohibit by law the importation into the State, for the purpose of sale, of any spurious, poisonous, or drugged spirituous liquors, or spirituous liquors adulterated with any poisonous or deleterious substance, mixture, or compound; and shall prohibit the compounding or manufacture within this State, except for chemical or mechanical purposes, of any of said liquors, whether they be denominated spirituous, vinous, malt, or otherwise; and shall also prohibit the sale of any such liquors to be used as a beverage; and any violation of either of said prohibitions shall be punished by fine and imprisonment. The general assembly shall provide by law for the condemnation and destruction of all spurious, poisonous, or drugged liquors herein prohibited.

Sec. 6. The general assembly shall enact laws in order to prevent the destruction of, and to keep in good preservation, the forests upon the lands of the State, or upon lands of the public domain, the control of which shall be conferred by Congress upon the State.

Sec. 7. The general assembly may provide that the increase in the value of private lands, caused by the planting of hedges, orchards, and forests thereon, shall not, for a limited time, to be fixed by law, be taken into account in assessing such lands for taxation.

Sec. 8. The general assembly shall provide for the publication of the laws passed at each session thereof; and, until the year 1900, they shall cause to be published in Spanish and German a sufficient number of copies of said laws to supply that portion of the inhabitants of the State who speak those languages, and who may be unable to read and understand the English language.

Article XIX

FUTURE AMENDMENTS

Section 1. The general assembly may, at any time, by a vote of two-thirds of the members elected to each house, recommend to the electors of the State to vote at the next general election for or against a convention to revise, alter, and amend this constitution; and if a majority of those voting on the question shall declare in favor of such convention, the general assembly shall, at its next session, provide for the calling thereof. The number of members of the convention shall be twice that of the senate, and they shall be elected in the same manner, at the same places, and in the same districts. The general assembly shall, in the act calling the convention, designate the day, hour, and place of its meeting; fix the pay of its members and officers, and provide for the payment of the same, together with the necessary expenses of the convention. Before proceeding the members shall take an oath to support the Constitution of the

United States and of the State of Colorado, and to faithfully discharge their duties as members of the convention. The qualifications of members shall be the same as of members of the senate, and vacancies occurring shall be filled in the manner provided for filling vacancies in the general assembly. Said convention shall meet within three months after such election, and prepare such revisions, alterations, or amendments to the constitution as may be deemed necessary, which shall be submitted to electors for their ratification or rejection at an election appointed by the convention for that purpose, not less than two nor more than six months after the adjournment thereof; and unless so submitted and approved by a majority of the electors voting at the election, no such revision, alteration, or amendment shall take effect.

SEC. 2. Any amendment or amendments to this constitution may be proposed in either house of the general assembly, and if the same shall be voted for by two-thirds of all the members elected to each house, such proposed amendments, together with the ayes and noes of each house thereon, shall be entered in full on their respective journals; and the secretary of state shall cause the said amendment or amendments to be published in full in at least one newspaper in each county, (if such there be,) for three months previous to the next general election for members to the general assembly; and at said election the said amendment or amendments shall be submitted to the qualified electors of the State for their approval or rejection, and such as are approved by a majority of those voting thereon shall become part of this constitution; but the general assembly shall have no power to propose amendments to more than one article of this constitution at the same session.

SCHEDULE

That no inconvenience may arise by reason of the change in the form of government, it is hereby ordained and declared:

SECTION 1. That all laws in force at the adoption of this constitution shall, so far as not inconsistent therewith, remain of the same force as if this constitution had not been adopted until they expire by their own limitation, or are altered or repealed by the general assembly; and all rights, actions, prosecutions, claims, and contracts of the Territory of Colorado, counties, individuals, or bodies-corporate, (not inconsistent therewith,) shall continue as if the form of government had not been changed and this constitution adopted.

SEC. 2. That all recognizances, obligations, and all others instruments entered into or executed before the admission of the State to the Territory of Colorado, or to any county, school-district, or other municipality therein, or any officer thereof, and all fines, taxes, penalties, and forfeitures due or owing to the Territory of Colorado, or any such county, school-district, or municipality, or officer, and all writs, prosecutions, actions, and causes of action, except as herein otherwise provided, shall continue and remain unaffected by the change of the form of government. All indictments which shall have been found, or may hereafter be found, and all informations which shall have been filed, or may hereafter be filed, for any crime or offence committed before this constitution takes effect, may be proceeded upon as if no change had taken place, except as otherwise provided in the constitution.

SEC. 3. That all property, real and personal, and all moneys, credits, claims, and choses in action belonging to the Territory of Colorado at the adoption of this constitution shall be vested in and become the property of the State of Colorado.

SEC. 4. The general assembly shall pass all necessary laws to carry into effect the provisions of the constitution.

SEC. 5. Whenever any two of the judges of the supreme court of the State, elected or appointed under the provisions of this constitution, shall have qualified in their office, the causes theretofore pending in the supreme court of the Territory, and the papers, records, and proceedings of said court, and the seal and other property pertaining thereto, shall pass into the jurisdiction and possession of the supreme court of the State; and, until so superseded, the supreme court of the Territory, and the judges thereof, shall continue with like powers and jurisdiction as if this constitution had not been adopted. Whenever the judge of the district court of any district, elected or appointed under the provisions of this constitution, shall have qualified in his office, the several causes theretofore pending in the district court of the Territory, within any county in such district, and the records, papers, and proceedings of said district court, and the seal and other property pertaining thereto, shall pass into the jurisdiction and possession of the district court of the State for such county, and until the district courts of the Territory shall be superseded in manner aforesaid, the said district courts and the judges thereof shall continue with the same jurisdiction and powers to be exercised in the same judicial districts respectively as heretofore constituted under the laws of the Territory.

SEC. 6. The terms of office of the several judges of the supreme and district courts and the district attorneys of the several judicial districts first elected under this constitution shall commence from the day of filing their respective oaths of office in the office of the secretary of state.

SEC. 7. Until otherwise provided by law, the seals now in use in the supreme and district courts of this Territory are hereby declared to be the seals of the supreme and district courts respectively of the State.

SEC. 8. Whenever this constitution shall go into effect, the books, records, papers, and proceedings of the probate court in each county, and all causes and matters of administration pending therein, shall pass into the jurisdiction and possession of the county court of the same county, and the said county court shall proceed to final decree or judgment, order, or other determination, in the said several matters and causes as the said probate court might have done if this constitution had not been adopted. And until the election of the county judges provided for in this constitution, the probate judges shall act as judges of the county courts within their respective counties, and the seal of the probate court in each county shall be the seal of the county court therein until the said court shall have procured a proper seal.

SEC. 9. The terms "probate court" or "probate judge," whenever occurring in the statutes of Colorado Territory, shall, after the adoption of this constitution, be held to apply to the county court or county judge; and all laws specially applicable to the probate court in any county shall be construed to apply to and be in force as to the county court in the same county until repealed.

SEC. 10. All county and precinct officers who may be in office at the

time of the adoption of this constitution shall hold their respective offices for the full time for which they may have been elected, and until such time as their successors may be elected and qualified, in accordance with the provisions of this constitution, and the official bonds of all such officers shall continue in full force and effect as though this constitution had not been adopted.

SEC. 11. All county offices that may become vacant during the year one thousand eight hundred and seventy-six, by the expiration of the term of the persons elected to said offices, shall be filled at the general election on the first Tuesday in October, in the year one thousand eight hundred and seventy-six, and, except county commissioners, the persons so elected shall hold their respective offices for the term of one year.

SEC. 12. The provisions of this constitution shall be in force from the day on which the President of the United States shall issue his proclamation declaring the State of Colorado admitted into the Union; and the governor, secretary, treasurer, auditor, and superintendent of public instruction of the Territory of Colorado shall continue to discharge the duties of their respective offices after the admission of the State into the Union until the qualification of the officers elected or appointed under the State government; and said officers, for the time they may serve, shall receive the same compensation as the State officers shall by law be paid for like services.

SEC. 13. In case of a contest of election between candidates, at the first general election under this constitution, for judges of the supreme, district, or county courts, or district attorneys, the evidence shall be taken in the manner prescribed by territorial law; and the testimony so taken shall be certified to the secretary of state, and said officer, together with the governor and attorney-general, shall review the testimony and determine who is entitled to the certificate of election.

SEC. 14. The votes at the first general election under this constitution for the several offices provided for in this constitution who are to be elected at the first election shall be canvassed in the manner prescribed by the territorial law for canvassing votes for like officers. The votes cast for the judges of the supreme and district courts and district attorneys shall be canvassed by the county canvassing-board in the manner prescribed by the territorial law for canvassing the votes for members of the general assembly; and the county clerk shall transmit the abstract of votes to the secretary of the Territory, acting as secretary of state, under the same regulations as are prescribed by law for sending the abstracts of votes for territorial officers; and the aforesaid acting secretary of state, auditor, treasurer, or any two of them, in the presence of the governor, shall proceed to canvass the votes, under the regulations of sections thirty-five and thirty-six of chapter twenty-eight of the revised statutes of Colorado Territory.

SEC. 15. Senators and members of the house of representatives shall be chosen by the qualified electors of the several senatorial and representative districts, as established in this constitution, until such districts shall be changed by law, and thereafter by the qualified electors of the several districts as the same shall be established by law.

SEC. 16. The votes cast for Representatives in Congress at the first election held under this constitution shall be canvassed and the

result determined in the manner provided by the laws of the Territory for the canvass of votes for Delegate in Congress.

SEC. 17. The provision of the constitution that no bill, except the general appropriation bill, introduced in either house after the first twenty-five days of the session, shall become a law, shall not apply to the first session of the general assembly; but no bill, introduced in either house at the first session of the general assembly after the first fifty days thereof, shall become a law.

SEC. 18. A copy of the abstracts of the votes cast at the first general election held under this constitution shall, by the county clerks of the several counties, be returned to the secretary of the Territory immediately after the canvass of said votes in their several counties; and the secretary, auditor, and treasurer of the Territory, or any two of them, shall, on the twenty-fifth day after the election, meet at the seat of government and proceed to canvass the votes cast for members of the general assembly, and determine the result thereof.

SEC. 19. The general assembly shall, at their first session, immediately after the organization of the two houses, and after the canvass of the votes for the officers of the executive department, and before proceeding to other business, provide, by act or joint resolution, for the appointment by said general assembly of electors in the electoral college; and such joint resolution, or the bill for such enactment, may be passed without being printed, or referred to any committee, or read on more than one day in either house, and shall take effect immediately after the concurrence of the two houses therein; and the approval of the governor thereto shall not be necessary.

SEC. 20. The general assembly shall provide that after the year one thousand eight hundred and seventy-six the electors of the electoral college shall be chosen by direct vote of the people.

SEC. 21. The general assembly shall have power, at their first session, to provide for the payment of the expenses of this convention, if any there be then remaining unpaid.

SEC. 22. All recognizances, bail-bonds, official bonds, and other obligations or undertakings which have been, or at any time before the admission of the State shall be, made or entered into and expressed to be payable to the people of the Territory of Colorado, shall continue in full force, notwithstanding the change in the form of government; and any breach thereof, whenever occurring, may, after the admission of the State, be prosecuted in the name of the people of the State.

Done in convention, at the city of Denver, Colorado, this fourteenth day of March, in the year of our Lord one thousand eight hundred and seventy-six, and of the Independence of the United States the one hundredth.

In witness whereof we have hereunto subscribed our names.

J. C. WILSON, *President.*

Attest:

W. W. COULSON, *Secretary.*
HERBERT STANLEY, *First Assistant Secretary.*
H. A. TERPENNING, *Second Assistant Secretary.*

AMENDMENT—1902

Article XX

CITY AND COUNTY OF DENVER—INCORPORATION

Section 1. The municipal corporation known as the city of Denver, and all municipal corporations and that part of the quasi-municipal corporation known as the county of Arapahoe, in the state of Colorado, included within the exterior boundaries of the said city of Denver as the same shall be bounded when this amendment takes effect, are hereby consolidated and are hereby declared to be a single body politic and corporate, by the name of the "City and County of Denver." By that name said corporation shall have perpetual succession, and shall own, possess and hold all property, real and personal, theretofore owned, possessed or held by the said city of Denver and by such included municipal corporations, and also all property, real and personal, theretofore owned, possessed or held by the said county of Arapahoe, and shall assume, manage and dispose of all trusts in any way connected therewith; and shall succeed to all the rights and liabilities, and shall acquire all benefits, and shall assume and pay all bonds, obligations and indebtedness of said city of Denver and of said included municipal corporations and of the county of Arapahoe; by that name may sue and defend, plead and be impleaded, in all courts and places, and in all matters and proceedings; may have and use a common seal and alter the same at pleasure; may purchase, receive, hold and enjoy, or sell and dispose of, real and personal property; may receive bequests, gifts and donations of all kinds of property, in fee simple, or in trust for public, charitable or other purposes; and do all things and acts necessary to carry out the purposes of such gifts, bequests and donations, with power to manage, sell, lease or otherwise dispose of the same in accordance with the terms of the gift, bequest or trust; shall have the power, within or without its territorial limits, to construct, condemn and purchase, purchase, acquire, lease, add to, maintain, conduct and operate, water works, light plants, power plants, transportation systems, heating plants, and any other public utilities or works or ways, local in use and extent, in whole or in part, and everything required therefor, for the use of said city and county and the inhabitants thereof, and any such systems, plants or works or ways, or any contracts in relation or connection with either, that may exist and which said city and county may desire to purchase, in whole or in part, the same or any part thereof may be purchased by said city and county which may enforce such purchase by proceedings at law as in taking land for public use by right of eminent domain, and shall have the power to issue bonds upon the vote of the taxpaying electors, at any special or general election, in any amount necessary to carry out any of said powers or purposes, as may by the charter be provided.

The general annexation and consolidation statutes of the state shall apply to the City and County of Denver to the same extent and in the same manner that they would apply to the city of Denver if it were not merged, as in this amendment provided, into the city and county of Denver. Any contiguous town, city or territory hereafter annexed to or consolidated with the city and county of Denver, under

any of the laws of this state, in whatsoever county the same may be at the time, shall be detached per se from such other county and become a municipal and territorial part of the city and county of Denver, together with all property thereunto belonging.

The city and county of Denver shall alone always constitute one judicial district of the state.

OFFICERS

SEC. 2. The officers of the city and county of Denver shall be such as by appointment or election may be provided for by the charter; and the jurisdiction, term of office, duties and qualifications of all such officers shall be such as in the charter may be provided; but every charter shall designate the officers who shall, respectively, perform the acts and duties required of county officers to be done by the constitution or by the general law as far as applicable. If any officer of said city and county of Denver shall receive any compensation whatever, he or she shall receive the same as a stated salary, the amount of which shall be fixed by the charter, and paid out of the treasury of the city and county of Denver in equal monthly payments.

TRANSFER OF GOVERNMENT

SEC. 3. Immediately upon the canvass of the vote showing the adoption of this amendment, it shall be the duty of the governor of the state to issue his proclamation accordingly, and thereupon the city of Denver, and all municipal corporations and that part of the county of Arapahoe within the boundaries of said city, shall merge into the city and county of Denver, and the terms of office of all officers of the City of Denver and of all included municipalities and of the county of Arapahoe shall terminate; except, that the then mayor, auditor, engineer, council (which shall perform the duties of a board of county commissioners), police magistrate, chief of police and boards, of the city of Denver shall become, respectively, said officers of the city and county of Denver, and said engineer shall be ex officio surveyor and said chief of police shall be ex officio sheriff of the city and county of Denver; and the then clerk and ex officio recorder, treasurer, assessor and coroner of the county of Arapahoe and the justices of the peace and constables holding office within the city of Denver, shall become, respectively, said officers of the city and county of Denver, and the district attorney shall also be ex-officio attorney of the city and county of Denver. The foregoing officers shall hold the said offices as above specified only until their successors are duly elected and qualified as herein provided for; except that the then district judges, county judge and district attorney shall serve their full terms, respectively, for which elected. The police and firemen of the city of Denver, except the chief of police as such, shall continue severally as the police and firemen of the city and county of Denver until they are severally discharged under such civil service regulations as shall be provided by the charter; and every charter shall provide that the department of fire and police and the department of public utilities and works shall be under such civil service regulations as in said charter shall be provided.

FIRST CHARTER

SEC. 4. The charter and ordinances of the city of Denver, as the same shall exist when this amendment takes effect, shall, for the time being only, and as far as applicable, be the charter and ordinances of the city and county of Denver; but the people of the city and county of Denver are hereby vested with, and they shall always have the exclusive power in the making, altering, revising or amending their charter, and, within ten days after the proclamation of the governor announcing the adoption of this amendment, the council of the city and county of Denver shall, by ordinance, call a special election, to be conducted as provided by law, of the qualified electors in said city and county of Denver, for the election of twenty-one taxpayers, who shall have been qualified electors within the limits thereof for at least five years, who shall constitute a charter convention, to frame a charter for said city and county in harmony with this amendment. Immediately upon completion, the charter so framed, with a prefatory synopsis, shall be signed by the officers and members of the convention and delivered to the clerk of said city and county, who shall publish the same in full, with his official certification, in the official newspaper of said city and county, three times, and a week apart, the first publication being with the call for a special election, at which the qualified electors of said city and county shall by vote express their approval or rejection of the said charter. If the said charter shall be approved by a majority of those voting thereon, then two copies thereof (together with the vote for and against), duly certified by the said clerk, shall, within ten days after such vote is taken, be filed with the secretary of state, and shall thereupon become and be the charter of the city and county of Denver. But if the said charter be rejected, then, within thirty days thereafter, twenty-one members of a new charter convention shall be elected at a special election, to be called as above in said city and county, and they shall proceed as above to frame a charter, which shall in like manner and to the like end be published and submitted to a vote of said voters for their approval or rejection. If again rejected, the procedure herein designated shall be repeated (each special election for members of a new charter convention being within thirty days after each rejection), until a charter is finally approved by a majority of those voting thereon, and certified (together with the vote for and against) to the secretary of state as aforesaid, whereupon it shall become the charter of the said city and county of Denver and shall become the organic law thereof, and supersede any existing charters and amendments thereof. The members of each of said charter conventions shall be elected at large; and they shall complete their labors within sixty days after their respective election.

Every ordinance for a special election of charter convention members shall fix the time and place where the convention shall be held, and shall specify the compensation, if any, to be paid the officers and members thereof, allowing no compensation in case of nonattendance or tardy-attendance, and shall fix the time when the vote shall be taken on the proposed charter, to be not less than thirty days nor more than sixty days after its delivery to the clerk. The charter shall make proper provision for continuing, amending or repealing the ordinances of the city and county of Denver.

All expenses of charter conventions shall be paid out of the treasury upon the order of the president and secretary thereof. The expenses of elections for charter conventions and of charter votes shall be paid out of the treasury, upon the order of the council.

No franchise, relating to any street, alley or public place of the said city and county shall be granted except upon the vote of the qualified taxpaying electors, and the question of its being granted shall be submitted to such vote upon deposit with the treasurer of the expense (to be determined by said treasurer) of such submission by the applicant for said franchise. The council shall have power to fix the rate of taxation on property each year for city and county purposes.

NEW CHARTERS, AMENDMENTS OF MEASURES

SEC. 5. The citizens of the city and county of Denver shall have the exclusive power to amend their charter or to adopt a new charter, or to adopt any measure as herein provided:

It shall be competent for qualified electors, in number not less than five per cent, of the next preceding gubernatorial vote in said city and county, to petition the council for any measure, or charter amendment, or for a charter convention. The council shall submit the same to a vote of the qualified electors at the next general election, not held within thirty days after such petition is filed; whenever such petition is signed by qualified electors in number not less than ten per cent, of the next preceding gubernatorial vote in said city and county, with a request for a special election, the council shall submit it at a special election, to be held not less than thirty nor more than sixty days from the date of filing the petition; Provided, That any question so submitted at a special election shall not again be submitted at a special election within two years thereafter. In submitting any such charter, charter amendment or measure, any alternative article or proposition may be presented for the choice of the voters, and may be voted on separately without prejudice to others. Whenever the question of a charter convention is carried by a majority of those voting thereon, a charter convention shall be called through a special election ordinance, as provided in section four (4) hereof, and the same shall be constituted and held and the proposed charter submitted to a vote of the qualified electors, approved or rejected, and all expenses paid, as in said section provided.

The clerk of the city and county shall publish, with his official certification, for three times, a week apart, in the official newspaper, the first publication to be with his call for the election, general or special, the full text of any charter, charter amendment, measure or proposal for a charter convention, or alternative article or proposition, which is to be submitted to the voters. Within ten days following the vote the said clerk shall publish once in said newspaper the full text of any charter, charter amendment, measure, or proposal for a charter convention, or alternative article or proposition, which shall have been approved by a majority of those voting thereon, and he shall file with the secretary of state two copies thereof (with the vote for and against) officially certified by him, and the same shall go into effect from the date of such filing. He shall also certify to the secretary of state, with the vote for and against, two copies of every defeated alternative article or proposition, charter, charter amendment,

measure or proposal for a charter convention. Each charter shall also provide for a reference, upon proper petition therefor, of measures passed by the council to a vote of the qualified electors, and for the initiative by the qualified electors of such ordinances as they may by petition request.

The signatures to petitions in this amendment mentioned need not all be on one paper. Nothing herein or elsewhere shall prevent the council, if it sees fit, from adopting automatic vote registers for use at elections and references.

No charter, charter amendment or measure adopted or defeated under the provisions of this amendment shall be amended, repealed, or revived, except by petition and electoral vote. And no such charter, charter amendment or measure shall diminish the tax rate for state purposes fixed by act of the general assembly, or interfere in any wise with the collection of state taxes.

CITIES OF THE FIRST AND SECOND CLASS

SEC. 6. Cities of the first and second class in this state are hereby empowered to propose for submission to a vote of the qualified electors, proposals for charter conventions and to hold the same, and to amend any such charter, with the same force and in the same manner and have the same power, as near as may be, as set out in sections four (4) and five (5) hereof, with full power as to real and personal property and public utilities, works or ways, as set out in section one (1) of this amendment.

SCHOOL DISTRICTS CONSOLIDATED

SEC. 7. The city and county of Denver shall alone always constitute one school district, to be known as District No. 1, but its conduct, affairs and business shall be in the hands of a board of education, consisting of such numbers, elected in such manner as the general school laws of the state shall provide, and until the first election under said laws of a full board of education, which shall be had at the first election held after the adoption of this amendment, all the directors of school district No. 1 and the respective presidents of the school boards of school districts Nos. 2, 7, 17 and 21 at the time this amendment takes effect, shall act as such board of education, and all districts or special charters now existing are hereby abolished.

The said board of education shall perform all the acts and duties required to be performed for said district by the general laws of the state. Except as inconsistent with this amendment, the general school laws of the state shall, unless the context evinces a contrary intent, be held to extend and apply to the said "District No. 1."

Upon the annexation of any contiguous municipality which shall include a school district or districts, or any part of a district, said school district or districts or part shall be merged in said "District No. 1," which shall then own all the property thereof, real and personal, located within the boundaries of such annexed municipality, and shall assume and pay all the bonds, obligations and indebtedness of each of the said included school districts, and a proper proportion of those partially included districts.

Provided, however, That the indebtedness, both principal and interest, which any school district may be under at the time when it becomes a part, by this amendment or by annexation, of said "District No. 1," shall be paid by said school district so owing the same by a special tax, to be fixed and certified by the board of education to the council, which shall levy the same upon the property within the boundaries of such district, respectively, as the same existed at the time such district becomes a part of said "District No. 1," and in case of partially included districts, such tax shall be equitably apportioned upon the several parts thereof.

SEC. 8. Anything in the constitution of this state in conflict or inconsistent with the provisions of this amendment is hereby declared to be inapplicable to the matters and things by this amendment covered and provided for.

CONNECTICUT[a]

For organic acts relating to the land now included within Connecticut, see in other parts of this work:
Virginia Charter of 1606 (Virginia, p. 3783).
Council for New England, 1620 (Massachusetts, p. 1827).
Commission to Andros, 1688 (Massachusetts, p. 1863).

FUNDAMENTAL ORDERS OF CONNECTICUT—1638–39 * [b]

Forasmuch as it hath pleased the Allmighty God by the wise disposition of his diuyne p[r]uidence so to Order and dispose of things that we the Inhabitants and Residents of Windsor, Harteford and Wethersfield are now cohabiting and dwelling in and vppon the River of Conectecotte and the Lands thereunto adioyneing; And well knowing where a people are gathered togather the word of God requires that to mayntayne the peace and vnion of such a people there should be an orderly and decent Gouerment established according to God, to order and dispose of the affayres of the people at all seasons as occation shall require; doe therefore assotiate and conioyne our selues to be as one Publike State or Comonwelth; and doe, for our selues and our Successors and such as shall be adioyned to vs att any tyme hereafter, enter into Combination and Confederation togather, to mayntayne and p[r]suarue the liberty and purity of the gospell of our Lord Jesus w[ch] we now p[r]fesse, as also the disciplyne of the Churches, w[ch] according to the truth of the said gospell is now practised amongst vs; As also in o[r] Ciuell Affaires to be guided and gouerned according to such Lawes, Rules, Orders and decrees as shall be made, ordered & decreed, as followeth:—

1. It is Ordered, sentenced and decreed, that there shall be yerely two generall Assemblies or Courts, the on the second thursday in Aprill, the other the second thursday in September, following; the first shall be called the Courte of Election, wherein shall be yerely Chosen frō tyme to tyme soe many Magestrats and other publike Officers as shall be found requisitte: Whereof one to be chosen Gouernour for the yeare ensueing and vntill another be chosen, and noe other Magestrate to be chosen for more then one yeare; p[r]uided

---

* Hazard's State Papers, I, 437–441.

[a] A provisional government was instituted, under a commission from the General Court of Massachusetts (March 3, 1635) to eight of the persons who "had resolved to transplant themselves and their estates unto the River of Connecticut," "that commission taking rise from the desire of the people that removed, who judged it inconvenient to go away without any frame of government,—not from any claim of the Massachusetts of jurisdiction over them by virtue of Patent."

[b] Springfield withdrew in 1637 from the association, and the remaining towns—Windsor, Hartford and Wethersfield,—formed this voluntary compact or constitution on the 14th of January, 1638–'39.

allwayes there be sixe chosen besids the Gouernour; wᶜʰ being chosen and sworne according to an Oath recorded for that purpose shall haue power to administer iustice according to the Lawes here established, and for want thereof according to the rule of the word of God; wᶜʰ choise shall be made by all that are admitted freemen and haue taken the Oath of Fidellity, and doe cohabitte wᵗʰin this Jurisdiction, (hauing beene admitted Inhabitants by the maior pʳt of the Towne wherein they liue,[a]) or the mayor pʳte of such as shall be then pʳsent.

2. It is Ordered, sentensed and decreed, that the Election of the aforesaid Magestrats shall be on this manner: euery pʳson pʳsent and quallified for choyse shall bring in (to the pʳsons deputed to receaue thē) one single papʳ wᵗʰ the name of him written in yt whom he desires to haue Gouernour, and he that hath the greatest nūber of papers shall be Gouernor for that yeare. And the rest of the Magestrats or publike Officers to be chosen in this manner: The Secretary for the tyme being shall first read the names of all that are to be put to choise and then shall seuerally nominate them distinctly, and euery one that would haue the pʳson nominated to be chosen shall bring in one single paper written vppon, and he that would not haue him chosen shall bring in a blanke: and euery one that hath more written papers than blanks shall be a Magistrat for that yeare; wᶜʰ papers shall be receaued and told by one or more that shall be then chosen by the court and sworne to be faythfull therein; but in case there should not be sixe chosen as aforesaid, besids the Gouernor, out of those wᶜʰ are nominated, then he or they wᶜʰ haue the most written papʳs shall be a Magestrate or Magestrats for the ensueing yeare, to make vp the aforesaid nūber.

3. It is Ordered, sentenced and decreed, that the Secretary shall not nominate any pʳson, nor shall any pʳson be chosen newly into the Magestracy wᶜʰ was not pʳpownded in some Generall Courte before, to be nominated the next Election; and to that end yt shall be lawfull for ech of the Townes aforesaid by their deputyes to nominate any two whō they conceaue fitte to be put to election; and the Courte may ad so many more as they iudge requisitt.

4. It is Ordered, sentenced and decreed that noe pʳson be chosen Gouernor aboue once in two yeares, and that the Gouernor be always a mēber of some approved congregation, and formerly of the Magestracy wᵗʰin this Jurisdiction; and all the Magestrats Freemen of this Coñonwelth: and that no Magestrate or other publike officer shall execute any pʳte of his or their Office before they are seuerally sworne, wᶜʰ shall be done in the face of the Courte if they be pʳsent, and in case of absence by some deputed for that purpose.

5. It is Ordered, sentenced and decreed, that to the aforesaid Courte of Election the seuʳall Townes shall send their deputyes, and when the Elections are ended they may pʳceed in any publike searuice as at other Courts. Also the other Generall Courte in September shall be for makeing of lawes, and any other publike occation, wᶜʰ conserns the good of the Coñonwelth.

6. It is Ordered, sentenced and decreed, that the Gouʳnor shall, ether by himselfe or by the secretary, send out suñons to the Consta-

[a] This clause has been interlined in a different handwriting, and at a more recent period.

bles of eu^r^ Towne for the cauleing of these two standing Courts, on month at lest before their seu^r^all tymes: And also if the Gou^r^nor and the gretest p^r^te of the Magestrats see cause vppon any spetiall occation to call a generall Courte, they may giue order to the secretary soe to doe w^th^in fowerteene dayes warneing; and if vrgent necessity so require, vppon a shorter notice, giueing sufficient grownds for yt to the deputyes when they meete, or els be questioned for the same; And if the Gou^r^nor and Mayor p^r^te of Magestrats shall ether neglect or refuse to call the two Generall standing Courts or ether of thē, as also at other tymes when the occations of the Coñonwelth require, the Freemen thereof, or the Mayor p^r^te of them, shall petition to them soe to doe: if then yt be ether denyed or neglected the said Freemen or the Mayor p^r^te of them shall haue power to giue order to the Constables of the seuerall Townes to doe the same, and so may meete togather, and chuse to themselues a Moderator, and may p^r^ceed to do any Acte of power, w^ch^ any other Generall Courte may.

7. It is Ordered, sentenced and decreed that after there are warrants giuen out for any of the said Generall Courts, the Constable or Constables of ech Towne shall forthw^th^ give notice distinctly to the inhabitants of the same, in some Publike Assembly or by goeing or sending frō howse to howse, that at a place and tyme by him or them lymited and sett, they meet and assemble thē selues togather to elect and chuse certen deputyes to be att the Generall Courte then following to agitate the afayres of the coñonwelth; w^ch^ said Deputyes shall be chosen by all that are admitted Inhabitants in the seu^r^all Townes and haue taken the oath of fidellity; p^r^uided that non be chosen a Deputy for any Generall Courte w^ch^ is not a Freeman of this Coñonwelth.

The a-foresaid deputyes shall be chosen in manner following: euery p^r^son that is p^r^sent and quallified as before exp^r^ssed, shall bring the names of such, written in seu^r^rall papers. as they desire to haue chosen for that Imployment, and these 3 or 4, more or lesse, being the nūber agreed on to be chosen for that tyme, that haue greatest nūber of papers written for thē shall be deputyes for that Courte; whose names shall be endorsed on the backe side of the warrant and returned into the Courte, w^th^ the Constable or Constables hand vnto the same.

8. It is Ordered, sentenced and decreed, that Wyndsor, Hartford and Wethersfield shall haue power, ech Towne, to send fower of their freemen as deputyes to euery Generall Courte; and whatsoeuer other Townes shall be hereafter added to this Jurisdiction, they shall send so many deputyes as the Courte shall judge meete, a resonable p^r^portion to the nūber of Freemen that are in the said Townes being to be attended therein; w^ch^ deputyes shall have the power of the whole Towne to giue their voats and alowance to all such lawes and orders as may be for the publike good, and unto w^ch^ the said Townes are to be bownd.

9. It is ordered and decreed, that the deputyes thus chosen shall haue power and liberty to appoynt a tyme and a place of meeting togather before any Generall Courte to aduise and consult of all such things as may concerne the good of the publike, as also to examine their owne Elections, whether according to the order, and if they or the gretest p^r^te of them find any election to be illegall they may seclud such for p^r^sent frō their meeting, and returne the same and their resons to the Courte; and if yt proue true, the Courte may fyne

the p^rty or p^rtyes so intruding and the Towne, if they see cause, and giue out a warrant to goe to a newe election in a legall way, either *in whole or* in p^rte. Also the said deputyes shall haue power to fyne any that shall be disorderly at their meetings, or for not coming in due tyme or place according to appoyntment; and they may returne the said fynes into the Courte if yt be refused to be paid, and the tresurer to take notice of yt, and to estreete or levy the same as he doth other fynes.

10. It is Ordered, sentenced and decreed, that euery Generall Courte, except such as through neglecte of the Gou^rnor and the greatest p^rte of Magestrats the Freemen themselves doe call, shall consist of the Gouernor, or some one chosen to moderate the Court, and 4 other Magestrats at lest, w^th the mayor p^rte of the deputyes of the seuerall Townes legally chosen; and in case the Freemen or mayor p^rte of thē through neglect or refusall of the Gouernor and mayor p^rte of the magestrats, shall call a Courte, that y^t shall consist of the mayor p^rte of Freemen that are p^rsent or their deputyes, w^th a Moderator chosen by thē: *In w^ch said Generall Courts shall consist the supreme power of the Cōmonwelth*, and they only shall haue power to make laws or repeale thē, to graunt leuyes, to admitt of Freemen, dispose of lands vndisposed of,, to seuerall Townes or p^rsons, and also shall haue power to call ether Courte or Magestrate or any other p^rson whatsoeuer into question for any misdemeanour, and may for just causes displace or deale otherwise according to the nature of the offence; and also may deale in any other matter that concerns the good of this cōmon welth, excepte election of Magestrats, w^ch shall be done by the whole boddy of Freemen: In w^ch Courte the Gouernour or Moderator shall haue power to order the Courte to giue liberty of spech, and silence vnceasonable and disorderly speakeings, to put all things to voate, and in case the vote be equall to haue the casting voice. But non of these Courts shall be adiorned or dissolued w^thout the consent of the maior p^rte of the Court.

11. It is ordered, sentenced and decreed, that when any Generall Courte vppon the occations of the Cōmonwelth haue agreed vppon any sume or somes of mony to be leuyed vppon the seuerall Townes w^thin this Jurisdiction, that a Cōmittee be chosen to sett out and appoynt w^t shall be the p^rportion of euery Towne to pay of the said leuy, p^rvided the Cōmittees be made vp of an equall nūber out of each Towne.

14^th January, 1638, the 11 Orders abouesaid are voted.

THE OATH OF THE GOU^RNOR, FOR THE [P^RSENT]

I N. W. being now chosen to be Gou^rnor w^thin this Jurisdiction, for the yeare ensueing, and vntil a new be chosen, doe sweare by the greate and dreadfull name of the everlineing God, to p^rmote the publicke good and peace of the same, according to the best of my skill; as also will mayntayne all lawfull priuiledges of this Cōmonwealth; as also that all wholsome lawes that are or shall be made by lawfull authority here established, be duly executed; and will further the execution of Justice according to the rule of Gods word; so helpe me God, in the name of the Lo: Jesus Christ.

THE OATH OF A MAGESTRATE, FOR THE P^r^SENT

I, N. W. being chosen a Magestrate w^th^in this Jurisdiction for the yeare ensueing, doe sweare by the great and dreadfull name of the euerliueing God, to p^r^mote the publike good and peace of the same, according to the best of my skill, and that I will mayntayne all the lawfull priuiledges thereof according to my vnderstanding, as also assist in the execution of all such wholsome lawes as are made or shall be made by lawfull authority heare established, and will further the execution of Justice for the tyme aforesaid according to the righteous rule of Gods word; so helpe me God, etc.

FUNDAMENTAL AGREEMENT, OR ORIGINAL CONSTITUTION OF THE COLONY OF NEW-HAVEN, JUNE 4, 1639 *

The 4th day of the 4th month, called June, 1639, all the free planters assembled together in a general meeting, to consult about settling civil government, according to God, and the nomination of persons that might be found, by consent of all, fittest in all respects for the foundation work of a church, which was intended to be gathered in Quinipiack. After solemn invocation of the name of God, in prayer for the presence and help of his spirit and grace, in those weighty businesses, they were reminded of the business whereabout they met, (viz.) for the establishment of such civil order as might be most pleasing unto God, and for the choosing the fittest men for the foundation work of a church to be gathered. For the better enabling them to discern the mind of God, and to agree accordingly concerning the establishment of civil order, Mr. John Davenport propounded divers queries to them publicly, praying them to consider seriously in the presence and fear of God, the weight of the business they met about, and not to be rash or slight in giving their votes to things they understood not; but to digest fully and thoroughly what should be propounded to them, and without respect to men, as they should be satisfied and persuaded in their own minds, to give their answers in such sort as they would be willing should stand upon record for posterity.

This being earnestly pressed by Mr. Davenport, Mr. Robert Newman was intreated to write, in characters, and to read distinctly and audibly in the hearing of all the people, what was propounded and accorded on, that it might appear, that all consented to matters propounded, according to words written by him.

Query I. Whether the scriptures do hold forth a perfect rule for the direction and government of all men in all duties which they are to perform to God and men, as well in families and commonwealth, as in matters of the church? This was assented unto by all, no man dissenting, as was expressed by holding up of hands. Afterwards it was read over to them, that they might see in what words their vote was expressed. They again expressed their consent by holding up their hands, no man dissenting.

Query II. Whereas there was a covenant solemnly made by the

*A Complete History of Connecticut from 1630 to 1764. Benjamin Trumbull, New Haven: 1797. I. Appendix No. IV. See also Alexander Johnston's *Connecticut* in American Commonwealths Series.

whole assembly of free planters of this plantation, the first day of extraordinary humiliation, which we had after we came together, that as in matters that concern the gathering and ordering of a church, so likewise in all public officers which concern civil order, as choice of magistrates and officers, making and repealing laws, dividing allotments of inheritance, and all things of like nature, we would all of us be ordered by those rules which the scripture holds forth to us; this covenant was called a plantation covenant, to distinguish it from a church covenant, which could not at that time be made, a church not being then gathered, but was deferred till a church might be gathered, according to God: It was demanded whether all the free planters do hold themselves bound by that covenant, in all businesses of that nature which are expressed in the covenant, to submit themselves to be ordered by the rules held forth in the scripture?

This also was assented unto by all, and no man gainsayed it; and they did testify the same by holding up their hands, both when it was first propounded, and confirmed the same by holding up their hands when it was read unto them in public. John Clark being absent, when the covenant was made, doth now manifest his consent to it. Also Richard Beach, Andrew Law, Goodman Banister, Arthur Halbridge, John Potter, Robert Hill, John Brocket, and John Johnson, these persons, being not admitted planters when the covenant was made, do now express their consent to it.

Query III. Those who have desired to be received as free planters, and are settled in the plantation, with a purpose, resolution and desire, that they may be admitted into church fellowship, according to Christ, as soon as God shall fit them thereunto, were desired to express it by holding up hands. According all did express this to be their desire and purpose by holding up their hands twice (viz.) at the proposal of it, and after when these written words were read unto them.

Query IV. All the free planters were called upon to express, whether they held themselves bound to establish such civil order as might best conduce to the securing of the purity and peace of the ordinance to themselves and their posterity according to God? In answer hereunto they expressed by holding up their hands twice as before, that they held themselves bound to establish such civil order as might best conduce to the ends aforesaid.

Then Mr. Davenport declared unto them, by the scripture, what kind of persons might best be trusted with matters of government; and by sundry arguments from scripture proved that such men as were described in Exod. xviii. 2, Deut. 1. 13, with Deut. xvii. 15, and 1 Cor. vi. 1, 6, 7, ought to be intrusted by them, seeing they were free to cast themselves into that mould and form of commonwealth which appeared best for them in reference to the securing the peace and peaceable improvement of all Christ his ordinances in the church according to God, whereunto they have bound themselves, as hath been acknowledged.

Having thus said he sat down praying the company freely to consider, whether they would have it voted at this time or not. After some space of silence, Mr. Theophilus Eaton answered, it might be voted, and some others also spake to the same purpose, none at all opposing it. Then it was propounded to vote.

Query V. WHETHER free burgesses shall be chosen out of the church members, they that are in the foundation work of the church being actually free burgesses, and to choose to themselves out of the like estate of church fellowship, and the power of choosing magistrates and officers from among themselves, and the power of making and repealing laws, according to the word, and the dividing of inheritances, and deciding of differences that may arise, and all the businesses of like nature are to be transacted by those free burgesses? This was put to vote and agreed unto by lifting up of hands twice, as in the former it was done. Then one man stood up and expressed his dissenting from the rest in part; yet granting, 1. That magistrates should be men fearing GOD. 2. That the church is the company where, ordinarily, such men may be expected. 3. That they that choose them ought to be men fearing GOD; only at this he stuck, that free planters ought not to give this power out of their hands. Another stood up and answered, that nothing was done, but with their consent. The former answered, that all the free planters ought to resume this power into their own hands again, if things were not orderly carried. Mr. Theophilus Eaton answered, that in all places they choose committees in like manner. The companies in London choose the liveries by whom the public magistrates are chosen. In this the rest are not wronged, because they expect, in time, to be of the livery themselves, and to have the same power. Some others intreated the former to give his arguments and reasons whereupon he dissented. He refused to do it, and said, they might not rationally demand it, seeing he let the vote pass on freely and did not speak till after it was past, because he would not hinder what they agreed upon. Then Mr. Davenport, after a short relation of some former passages between them two about this question, prayed the company that nothing might be concluded by them on this weighty question, but what themselves were persuaded to be agreeing with the mind of GOD, and they had heard what had been said since the voting; he intreated them again to consider of it, and put it again to vote as before. Again all of them, by holding up their hands, did show their consent as before. And some of them confessed that, whereas they did waver before they came to the assembly, they were now fully convinced, that it is the mind of GOD. One of them said that in the morning before he came reading Deut. xvii. 15, he was convinced at home. Another said, that he came doubting to the assembly, but he blessed GOD, by what had been said, he was now fully satisfied, that the choice of burgesses out of church members, and to intrust those with the power before spoken of is according to the mind of GOD revealed in the scriptures. All having spoken their apprehensions it was agreed upon, and Mr. Robert Newman was desired to write it as an order whereunto every one, that hereafter should be admitted here as planters, should submit, and testify the same by subscribing their names to the order: Namely, that church members only shall be free burgesses, and that they only shall choose magistrates and officers among themselves, to have power of transacting all the public civil affairs of this plantation; of making and repealing laws, dividing of inheritances, deciding of differences that may arise, and doing all things and businesses of like nature.

This being thus settled, as a fundamental agreement concerning civil government, Mr. Davenport proceeded to propound something to consideration about the gathering of a church, and to prevent the blemishing of the first beginnings of the church work, Mr. Davenport advised, that the names of such as were to be admitted might be publicly propounded, to the end that they who were most approved might be chosen; for the town being cast into several private meetings, wherein they that lived nearest together gave their accounts one to another of God's gracious work upon them, and prayed together and conferred to their mutual edification, sundry of them had knowledge one of another; and in every meeting some one was more approved of all than any other; for this reason and to prevent scandals, the whole company was intreated to consider whom they found fittest to nominate for this work.

Query VI. Whether are you all willing and do agree in this, that twelve men be chosen, that their fitness for the foundation work may be tried; however there may be more named yet it may be in their power who are chosen to reduce them to twelve, and that it be in the power of those twelve to choose out of themselves seven, that shall be most approved of by the major part, to begin the church?

This was agreed upon by consent of all, as was expressed by holding up of hands, and that so many as should be thought fit for the foundation work of the church, shall be propounded by the plantation, and written down and pass without exception, unless they had given public scandal or offence. Yet so as in case of public scandal or offence, every one should have liberty to propound their exception, at that time, publicly against any man, that should be nominated, when all their names should be writ down. But if the offence were private, that mens names might be tendered, so many as were offended were intreated to deal with the offender privately, and if he gave not satisfaction to bring the matter to the twelve, that they might consider of it impartially and in the fear of God.

GOVERNMENT OF NEW HAVEN COLONY[a]

October 27/November 6, 1643

It was agreed and concluded as a foundamentall order nott to be disputed or questioned hereafter, thatt none shall be admitted to be free burgesses in any of the plantations within this jurisdiction for the future, butt such planters as are members of some or other of the approved churches of New England, nor shall any butt such free burgesses have any vote in any election, (the six present freemen att Milforde enjoying the liberty with the cautions agreed,) nor shall any power or trust in the ordering of any civill affayres, be att any time putt into the hands of any other than such church members, though as free planters, all have right to their inherritance & to comerce, ac-

[a] This was agreed to by a General Court held at New Haven for the Jurisdiction, October 27, 1643. Text in Records of the Colony and Plantation of New Haven, from 1638 to 1649. Charles J. Hoadley Editior, (Hartford, 1859.). pp. 112–116. For account of the organization of government at New Haven, June 4/14, 1639, see idem, 11–17.

cording to such grants, orders and lawes as shall be made concerning the same.

2. All such free burgesses shall have power in each towne or plantation within this jurisdiction to chuse fitt and able men, from amongst themselves, being church members as before, to be the ordinary judges, to heare and determine all inferior causes, whether civill or criminall, provided that no civill cause to be tryed in any of these plantation Courts in value exceed 20[l], and thatt the punishment in such criminals, according to the minde of God, revealed in his word, touching such offences, doe nott exceed stocking and whipping, or if the fine be pecuniary, thatt itt exceed nott five pounds. In which Court the magistrate or magistrates, if any be chosen by the free burgesses or the jurisdiction for thatt plantation, shall sitt and assist with due respect to their place, and sentence shall according to the vote of the major part of each such Court, onely if the partyes, or any of them be nott satisfyed with the justice of such sentences or executions, appeales or complaints may be made from and against these courts to the Court of Magistrates for the whole jurisdiction.

3. All such free burgesses through the whole jurisdiction, shall have vote in the election of all magistrates, whether Governor, Deputy Governor, or other magistrates, with a Treasurer, a Secretary and a Marshall, &c. for the jurisdiction. And for the ease of those free burgesses, especially in the more remote plantations, they may by proxi vote in these elections, though absent, their votes being sealed up in the presence of the free burgesses themselves, thatt their several severall libertyes may be preserved, and their votes directed according to their owne perticular light, and these free burgesses may, att every election, chuse so many magistrates for each plantation, as the weight of affayres may require, and as they shall finde fitt men for thatt trust. Butt it is provided and agreed, thatt no plantation shall att any election be left destitute of a magistrate if they desire one to be chosen out of those in church fellowshipp with them.

4. All the magistrates for the whole juridsiction shall meete twice a yeare att Newhaven, namely, the Munday immediately before the sitting of the two fixed Generall Courts hereafter mentioned, to keep a Court called the Court of Magistrates, for the tryall of weighty and capitall cases, whether civill or criminall, above those lymitted to the ordinary judges in the perticular plantations, and to receive and try all appeales brought unto them from the aforesaid Plantation Courts, and to call all the inhabitants, whether free burgesses, free planters, or others, to account for the breach of any lawes established, and for other misdeameanours, and to censure them according to the quallity of the offence, in which meetings of magistrates, less then fower shall nott be accounted a Court, nor shall they carry on any busines as a Court, butt itt is expected and required, thatt all the magistrates in this jurisdiction doe constantly attend the publique service att the times before mentioned, & if any of them be absent att one of the clock in the afternoone on Munday aforesaid, when the court shall sitt, or if any of them depart the towne without leave, while the court sitts, he or they shall pay for any such default, twenty shillings fine, unless some providence of God occasion the same, which the Court of Magistrates shall judge off from time to time, and all sentences in this court shall pass by the vote of the major part of magistrates therein, butt from this Court of Magistrates, appeales

and complaints may be made and brought to the Generall Court as the last and highest of this jurisdiction; butt in all appeales or complaints from, or to, what court soever, due costs and damages shall be payd by him or them thatt make appeale or complaint without just cause.

5. Besides the Plantation Courts and Court of Magistrates, there shall be a Generall Court for the Jurisdiction, which shall consist of the Governor, Deputy Governor and all the Magistrates within the Jurisdiction, and two Deputyes for every plantation in the Jurisdiction, which Deputyes shall from time to time be chosen against the approach of any such Generall Court, by the aforesaid free burgesses, and sent with due certifficate to assist in the same, all which, both Governor and Deputy Governor, Magistrates and Deputyes, shall have their vote in the said Court. This Generall Court shall always sitt att Newhaven, (unless upon weighty occasions the Generall Court see cause for a time to sitt elsewhere,) and shall assemble twice every yeare, namely, the first Wednesday in Aprill, & the last Wednesday in October, in the later of which courts the Governor, the Deputy Governor and all the magistrates for the whole jurisdiction with a Treasurer, a Secretary and Marshall, shall yearly be chosen by all the free burgesses before mentioned, besides which two fixed courts, the Governor, or in his absence, the Deputy Governor, shall have power to summon a Generall Court att any other time, as the urgent and extraordinary occasions of the jurisdiction may require, and att all Generall Courts, whether ordinary or extraordinary, the Governor and Deputy Governor, and all the rest of the magistrates for the jurisdiction, with the Deputyes for the severall plantations, shall sitt together, till the affayres of the jurisdiction be dispatched or may safely be respited, and if any of the said magistrates or Deputyes shall either be absent att the first sitting of the said Generall Court, (unless some providence of God hinder, which the said Court shall judge of,) or depart, or absent themselves disorderly before the Court be finished he or they shall each of them pay twenty shillings fine, with due considerations of further aggravations if there shall be cause; which Generall Court shall, with all care and delligence provide for the maintenance of the purity of religion, and suppress the contrary, according to their best light from the worde of God, and all wholsome and sound advice which shall be given by the elders and churches in the jurisdiction, so farr as may concerne their civill power to deale therein.

Secondly they shall have power to mak and repeale lawes, and, while they are in force, to require execution of them in all the severall plantations.

Thirdly, to impose an oath upon all the magistrates, for the faithful discharge of the trust committed to them, according to their best abilityes, and to call them to account for the breach of any lawes established, or for other misdemeanors, and to censure them, as the quallity of the offence shall require.

Fowerthly, to impose and [an] oath of fidelity and due subjection to the lawes upon all the free burgesses, free planters, and other inhabitants within the whole jurisdiction.

5ly to settle and leivie rates and contributions upon all the severall plantations, for the publique service of the jurisdiction.

6ly, to heare and determine all causes, whether civill or crominall, which by appeale or complaint shall be orderly brought unto them from any of the other Courts, or from any of the other plantations, In all which, with whatsoever else shall fall within their cognisance or judicature, they shall proceed according to the scriptures, which is the rule of all rightous lawes and sentences, and nothing shall pass an act of the Generall Court butt by the consent of the major part of the magistrates, and the greater part of Deputyes.

These generalls being thus layd and settled, though with purpose thatt the scircumstantialls, such as the vallue of the causes to be tryed in the Plantation Courts, the ordinary and fixed times of meetings, both for the Generall Courts, and courts of magistrates, how oft and when they shall sitt, with the fines for absence or default, be hereafter considered off, continued or altered, as may best and most advance the course of justice, and best sute the occasions of the plantations, the Court proceed to present perticular busines of the jurisdiction.

CHARTER OF CONNECTICUT—1662 * [a]

Charles the Second, by the Grace of God, King of *England*, *Scotland*, *France*, and *Ireland*, Defender of the Faith, &c. To all to whom these Presents shall come, Greeting.

Whereas by the several Navigations, Discoveries, and Successful Plantations of divers of Our loving Subjects of this Our Realm of England, *several Lands, Islands, Places, Colonies, and Plantations have been obtained and settled in that Part of the Continent of* America *called* New-England, *and thereby the Trade and Commerce there, hath been of late Years much increased: And whereas We have been informed by the humble Petition of our Trusty and Well beloved* John Winthrop, John Mason, Samuel Wyllys, Henry Clarke, Matthew Allyn, John Tapping, Nathan Gold, Richard Treat, Richard Lord, Henry Wolcott, John Talcott, Daniel Clarke, John Ogden, Thomas Wells, Obadias Brewen, John Clerke, Anthony Hawkins, John Deming, *and* Matthew Camfeild, *being Persons principally interested in Our Colony or Plantation of* Connecticut, *in* New-England, *that the same Colony, or the greatest part thereof, was Purchased and obtained for great and valuable Considerations, and some other Part thereof gained by Conquest, and with much difficulty, and at the only Endeavors, Expence, and Charges of them and their Associates, and those under whom they Claim, Subdued, and Improved, and thereby become a considerable Enlargement and Addition of Our Dominions and Interest there.* Now Know Ye, That in

---

* Acts and Law of the State of Connecticut, in America, New London: Printed by Timothy Green, Printer to the Governor and State of Connecticut, MDCCLXXXIV, 3–8.

Charter of the Colony of Connecticut, 1662, Hartford, Conn.: The Case, Lockwood & Brainard Company, Printers, 1888. 13 pp.

[a] The Colonies of Hartford and New Haven had continued separate until they accepted this charter from King Charles, April 20, 1665. An attempt was made in 1687 to repeal this charter, but the colonists refused to surrender it, and after the accession of William and Mary, in 1689, it was again recognized.

Consideration thereof, and in Regard the said Colony is remote from other the *English* Plantations in the Places aforesaid, and to the End the Affairs and Business which shall from Time to Time happen or arise concerning the same, may be duly Ordered and Managed, we have thought fit, and at the humble Petition of the Persons aforesaid, and are graciously Pleased to create and make them a Body Politick and Corporate, with the Powers and Privileges herein after mentioned; and accordingly Our Will and Pleasure is, and of our especial Grace, certain Knowledge, and meer Motion, We have ordained, constituted and declared, and by these presents, for Us, Our Heirs and Successors, Do ordain, constitute and declare, that they the said *John Winthrop*, *John Mason*, *Samuel Wyllys*, *Henry Clarke*, *Matthew Allyn*, *John Tapping*, *Nathan Gold*, *Richard Treat*, *Richard Lord*, *Henry Wolcott*, *John Talcott*, *Daniel Clarke*, *John Ogden*, *Thomas Wells*, *Obadiah Brwen*, *John Clerke*, *Anthony Hawkins*, *John Deming*, and *Matthew Camfeild*, and all such others as now are, or hereafter shall be admitted and made free of the Company and Society of Our Colony of *Connecticut*, in *America*, shall from Time to Time, and for ever hereafter, be One Body Corporate and politique, in Fact and Name, by the Name of, *Governor and Company of the* English *Colony of* Connecticut *in* New-England, *in* America;

And that by the same Name they and their Successors shall and may have perpetual Succession, and shall and may be Persons able and capable in the Law, to plead and be impleaded, to answer and to be answered unto, to defend and be defended in all and singular Suits, Causes, Quarrels, Matters, Actions, and Things, of what Kind or Nature soever; and also to have, take, possess, acquire, and purchase Lands, Tenements, or Hereditaments, or any Goods or Chattels, and the same to lease, grant, demise, alien, bargain, sell, and dispose of, as other Our liege People of this Our Realm of *England*, or any other Corporation or Body Politique within the same may lawfully do. And further, That the said Governor and Company, and their Successors, shall and may forever hereafter have a common Seal, to serve and use for all Causes, Matters, Things, and affairs whatsoever, of them and their Successors, and the same Seal, to alter, change, break, and make new from Time to Time, at their Wills and Pleasures, as they shall think fit. And further, We will and ordain, and by these Presents, for Us, our Heirs and Successors, do declare and appoint, that for the better ordering and managing of the Affairs and Business of the said Company and their Successors, there shall be One Governor, One Deputy-Governor, and Twelve Assistants, to be from time to Time constituted, elected and chosen out of the Freemen of the said Company for the Time being, in such Manner and Form as hereafter in these Presents is expressed, which said Officers shall apply themselves to take Care for the best disposing and ordering of the general Business and affairs of and concerning the Land and Hereditaments herein after mentioned to be granted, and the Plantation thereof, and the Government of the People thereof: And for the better Execution of Our Royal Pleasure herein, We do for Us, Our Heirs, and Successors, assign, name, constitute and appoint the aforesaid *John Winthrop* to be the first and present Governor of the said Company, and the said *John Mason*, to be the Deputy-Governor, and the said *Samuel Wyllys*, *Matthew Allyn*, *Nathan Gold*, *Henry Clerke*, *Richard Treat*, *John Ogden*, *John Tapping*, *John Talcott*, *Thomas*

Wells, *Henry Wolcott*, *Richard Lord*, and *Daniel Clerke*, to be the Twelve present assistants of the said Company, to continue in the said several Offices respectively, until the second Thursday which shall be in the Month of October now next coming. And further we Will, and by these Presents for Us, Our Heirs, and Successors, Do ordain and grant, That the Governor of the said Company for the Time being, or in his Absence by occasion of Sickness, or otherwise by his Leave or Permission, the Deputy-Governor for the Time being, shall and may from Time to Time upon all Occasions, give Order for the assembling of the said Company, and calling them together to consult and advise of the Business and Affairs of the said Company, and that for ever hereafter, twice in every Year, *That is to say*, On every Second Thursday in *October*, and on every Second Thursday in *May*, or oftener in case it shall be requisite; the Assistants, and Freemen of the said Company, or such of them (not exceeding Two Persons from each Place, Town, or City) who shall be from Time to Time thereunto elected or deputed by the major Part of the Freemen of the respective Towns, Cities, and Places for which they shall be elected or deputed, shall have a General Meeting, or Assembly, then and there to consult and advise in and about the Affairs and Business of the said Company: and that the Governor, or in his Absence the Deputy-Governor of the said Company for the Time being, and such of the Assistants and Freemen of the said Company as shall be so elected or deputed, and be present at such Meeting or Assembly, or the greatest Number of them, whereof the Governor of Deputy-Governor, and Six of the Assistants at least, to be Seven, shall be called the General Assembly, and shall have full Power and authority to alter and change their Days and Times of Meeting, or General Assemblies, for electing the Governor, Deputy-Governor, and Assistants, or other Officers or any other Courts, Assemblies or Meetings, and to choose, nominate and appoint such and so many other Persons as they shall think fit, and shall be willing to accept the same, to be Free of the said Company and Body Politique, and them into the same to admit; And to elect and constitute such Officers as they shall think fit and requisite for the ordering, managing and disposing of the Affairs of the said Governor and Company, and their Successors:

And we do hereby for Us, Our Heirs and Successors, establish and ordain, That once in the Year for ever hereafter, Namely, the said Second Thursday in *May*, the Governor, Deputy-Governor, and Assistants of the said Company, and other Officers of the said Company, or such of them as the said General Assembly shall think fit, shall be in the said General Court and Assembly to be held from that Day or Time, newly chosen for the Year ensuing, by such greater Part of the said Company for the Time being, then and there present; and if the Governor, Deputy-Governor, and Assistants by these Presents appointed, or such as hereafter be newly chosen into their Rooms, or any of them, or any other the Officers to be appointed for the said Company shall die, or be removed from his or their several Offices or Places before the said general Day of Election, whom We do hereby declare for any Misdemeanor or Default, to be removable by the Governor, Assistants, and Company, or such greater Part of them in any of the said public Courts to be assembled, as is aforesaid, that then and in every such Case, it shall and may be lawful to and for the Governor, Deputy-Governor, and Assistants, and Company aforesaid,

or such greater Part of them so to be assembled, as is aforesaid, in any of their Assemblies, to proceed to a new Election of one or more of their Company, in the Room or Place, Rooms or Places of such Governor, Deputy-Governor, Assistant, or other Officer or Officers so dying or removed, according to their Discretions, and immediately upon and after such Election or Elections made of such Governor, Deputy-Governor, Assistant or Assistants, or any other Officer of the said Company, in Manner and Form aforesaid, the Authority, Office and Power before given to the former Governor, Deputy-Governor, or other Officer and Officers so removed, in whose Stead and Place new shall be chosen, shall as to him and them, and every of them respectively, cease and determine.

Provided also, And Our Will and Pleasure is, That as well such as are by these Presents appointed to be the present Governor, Deputy-Governor, and Assistants of the said Company, as those that shall succeed them, and all other Officers to be appointed and chosen, as aforesaid, shall before they undertake the Execution of their said Offices and Places respectively, take their several and respective corporal Oaths for the due and faithful Performance of their Duties, in their several Offices and Places, before such Person or Persons as are by these Presents hereafter appointed to take and receive the same; *That is to say*, The said *John Winthrop*, who is herein before nominated and appointed the present Governor of the said Company, shall take the said Oath before One or more of the Masters of Our Court of Chancery for the Time being, unto which Master of Chancery, We do by these Presents give full Power and Authority to administer the said Oath to the said *John Winthrop* accordingly: And the said *John Mason*, who is herein before nominated and appointed the present Deputy-Governor of the said Company, shall take the said Oath before the said *John Winthrop*, or any Two of the Assistants of the said Company, unto whom We do by these Presents give full Power and Authority to administer the said Oath to the said *John Mason* accordingly: And the said *Samuel Wyllys*, *Henry Clerke*, *Matthew Allyn*, *John Tapping*, *Nathan Gold*, *Richard Treat*, *Richard Lord*, *Henry Wolcott*, *John Talcott*, *Daniel Clerke*, *John Ogden*, and *Thomas Wells*, who are herein before nominated and appointed the present Assistants of the said Company, shall take the Oath before the said *John Winthrop*, and *John Mason*, or One of them, to whom We do hereby give full Power and Authority to administer the same accordingly.

And Our further Will and Pleasure is, that all and every Governor, or Deputy-Governor to be elected and chosen by Virtue of these Presents, shall take the said Oath before Two or more of the Assistants of the said Company for the Time being, unto whom We do by these Presents give full Power and Authority to give and administer the said Oath accordingly; and the said Assistants, and every of them, and all and every other Officer or Officers to be here after chosen from Time to Time, to take the said Oath before the Governor, or Deputy-Governor for the Time being, unto which Governor, or Deputy-Governor, We do by these Presents give full Power and Authority to administer the same accordingly. And further, Of Our more ample Grace, certain Knowledge, and meer Motion, We have given and granted, and by these presents for Us, Our Heirs and Successors, do give and grant unto the said Governor and Company

of the *English* Colony of *Connecticut*, in *New England*, in *America*, and to every Inhabitant there, and to every Person and Persons trading thither, and to every such Person and Persons as are or shall be Free of the said Colony, full Power and Authority from Time to Time, and at all Times hereafter, to take Ship, Transport and carry away for and towards the Plantation and Defence of the said Colony, such of Our loving Subjects and Strangers, as shall or will willingly accompany them in, and to their said Colony and Plantation, except such Person and Persons as are or shall be therein restrained by Us, Our Heirs and Successors; and also to ship and transport all, and all Manner of Goods, Chattels, Merchandises, and other Things whatsoever that are or shall be useful or necessary for the Inhabitants of the said Colony, and may lawfully be transported thither; *Nevertheless*, not to be discharged of Payment to Us, our Heirs and Successors, of the Duties, Customs and Subsidies which are or ought to be paid or payable for the same.

And further, Our Will and Pleasure is, and We do for Us, Our Heirs and Successors, ordain, declare, and grant unto the said Governor and Company, and their Successors, That all, and every the Subjects of Us, Our Heirs, or Successors, which shall go to inhabit within the said Colony, and every of their Children, which shall happen to be born there, or on the Seas in going thither, or returning from thence, shall have and enjoy all Liberties and Immunities of free and natural Subjects within any the Dominions of Us, Our Heirs or Successors, to all Intents, Constructions and Purposes whatsoever, as if they and every of them were born within the realm of *England;* And We do authorize and impower the Governor, or in his Absence the Deputy-Governor for the Time being, to appoint Two or more of the said Assistants at any of their Courts or Assemblies to be held as aforesaid, to have Power and Authority to administer the Oath of Supremacy and Obedience to all and every Person or Persons which shall at any Time or Times hereafter go or pass into the said Colony of *Connecticut*, unto which said Assistants so to be appointed as aforesaid, We do by these Presents give full Power and Authority to administer the said Oath accordingly. And We do further of Our especial Grace, certain Knowledge, and meer Motion, give, and grant unto the said Governor and Company of the English Colony of *Connecticut*, in *New-England*, in *America*, and their Successors, That it shall and may be lawful to and for the Governor, or Deputy-Governor, and such of the Assistants of the said Company for the Time being as shall be assembled in any of the General Courts aforesaid, or in any Courts to be especially summoned or assembled for that Purpose, or the greater part of them, whereof the Governor, or Deputy-Governor, and Six of the Assistants to be always Seven, to erect and make such Judicatories, for the hearing, and determining of all Actions, Causes, Matters, and Things happening within the said Colony, or Plantation, and which shall be in Dispute, and Depending there, as they shall think Fit, and Convenient, and also from Time to Time to Make, Ordain, and Establish all manner of wholesome, and reasonable Laws, Statutes, Ordinances, Directions, and Instructions, not Contrary to the Laws of this Realm of *England*, as well for settling the Forms, and Ceremonies of Government, and Magistracy, fit and necessary for the said Plantation, and the Inhabitants there, as for Naming, and Stiling all Sorts of Officers, both Superior and Inferior, which they

shall find Needful for the Government, and Plantation of the said Colony, and the distinguishing and setting forth of the several Duties, Powers, and Limits of every such Office and Place, and the Forms of such Oaths not being contrary to the Laws and Statutes of this Our Realm of *England*, to be administered for the Execution of the said several Offices and Places as also for the disposing and ordering of the Election of such of the said Officers as are to be annually chosen, and of such others as shall succeed in case of Death or Removal, and administring the said Oath to the newly-elected Officers, and granting necessary Commissions, and for Imposition of lawful Fines, Mulcts, Imprisonment or other Punishment upon Offenders and Delinquents according to the Course of other Corporations within this our Kingdom of *England*, and the same Laws, Fines, Mulcts and Executions, to alter, change, revoke, annul, release, or pardon under their Common Seal, as by the said General Assembly, or the major Part of them shall be thought fit, and for the directing, ruling and disposing of all other Matters and things, whereby Our said People Inhabitants there, may be so religiously, peaceably and civilly governed, as their good Life and orderly Conversation may win and invite the Natives of the Country to the Knowledge and Obedience of the only true GOD, and the Saviour of Mankind, and the Christian Faith, which in Our Royal Intentions, and the adventurers free Possession, is the only and principal End of this Plantation; willing, commanding and requiring, and by these Presents for Us, Our Heirs and Successors, ordaining and appointing, that all such Laws, Statutes and Ordinances, Instructions, Impositions and Directions as shall be so made by the Governor, Deputy-Governor, and Assistants as aforesaid, and published in Writing under their Common Seal, shall carefully and duly be observed, kept, performed, and put in Execution, according to the true Intent and Meaning of the same, and these Our Letters Patents, or the Duplicate, or Exemplification thereof, shall be to all and every such Officers, Superiors and Inferiors from Time to Time, for the putting of the same Orders, Laws, Statutes, Ordinances, Instructions, and Directions in due Execution, against Us, Our Heirs and Successors, a sufficient Warrant and Discharge.

And We do further for Us, Our Heirs and Successors, give and grant unto the said Governor and Company, and their Successors, by these Presents, That it shall and may be lawful to, and for the Chief Commanders, Governors and Officers of the said Company for the Time being, who shall be resident in the Parts of *New-England* hereafter mentioned, and others inhabiting there, by their Leave, Admittance, Appointment, or Direction, from Time to Time, and at all Times hereafter, for their special Defence and Safety, to Assemble, Martial-Array, and put in warlike Posture the Inhabitants of the said Colony, and to Commissionate, Impower, and Authorize such Person or Persons as they shall think fit, to lead and conduct the said Inhabitants, and to encounter, expulse, repel and resist by Force of Arms, as well by Sea as by Land, and also to kill, slay, and destroy by all fitting Ways, Enterprises, and Means whatsoever, all and every such Person or Persons as shall at any Time hereafter attempt or enterprize the Destruction, Invasion, Detriment, or Annoyance of the said Inhabitants or Plantation, and to use and exercise the Law Martial in such Cases only as Occasion shall require; and to take or surprize by all Ways and Means whatsoever, all and every such Per-

son and Persons, with their Ships, Armour, Ammunition and other Goods of such as shall in such hostile Manner invade or attempt the defeating of the said Plantation, or the hurt of the said Company and Inhabitants, and upon just Causes to invade and destroy the Natives, or other Enemies of the said Colony. *Nevertheless*, Our Will and Pleasure is, and We do hereby declare unto all Christian Kings, Princes, and States, that if any Persons which shall hereafter be of the said Company or Plantation, or any other by Appointment of the said Governor and Company for the Time being, shall at any Time or Times hereafter rob or spoil by Sea or by Land, and do any Hurt, Violence, or unlawful Hostility to any of the Subjects of Us, Our Heirs or Successors, or any of the Subjects of any Prince or State, being then in League with Us, Our Heirs or Successors, upon Complaint of such Injury done to any such Prince or State, or their Subjects, We, Our Heirs and Successors will make open Proclamation within any Parts of Our Realm of *England* fit for that Purpose, that the Person or Persons committing any such Robbery or Spoil, shall within the Time limited by such Proclamation, make full Restitution or Satisfaction of all such Injuries done or committed, so as the said Prince, or others so complaining may be fully satisfied and contented; and if the said Person or Persons who shall commit any such Robbery or Spoil shall not make Satisfaction accordingly, within such Time so to be limited, that then it shall and may be lawful for Us, Our Heirs and Successors, to put such Person or Persons out of Our Allegiance and Protection; and that it shall and may be lawful and free for all Princes or others to prosecute with Hostility such Offenders, and every of them, their, and every of their Procurers, Aiders, Abettors and Counsellors in that Behalf.

Provided also, and Our express Will and Pleasure is, and We do by these Presents for Us, Our Heirs, and Successors, Ordain and Appoint, that these Presents shall not in any Manner hinder any of Our loving Subjects whatsoever to use and exercise the Trade of Fishing upon the Coast of *New-England*, in *America*, but they and every or any of them shall have full and free Power and Liberty, to continue, and use the said Trade of Fishing upon the said Coast, in any of the Seas thereunto adjoining, or any Arms of the Seas, or Salt Water Rivers where they have been accustomed to fish, and to build and set up on the waste Land belonging to the said Colony of *Connecticut*, such Wharves, Stages, and Work-Houses as shall be necessary for the salting, drying, and keeping of their Fish to be taken, or gotten upon that Coast, any Thing in these Presents contained to the contrary notwithstanding. And Know Ye further, That We, of Our abundant Grace, certain Knowledge, and mere Motion, have given, granted, and confirmed, and by these Presents for Us, our Heirs and Successors, do give, grant and confirm unto the said Governor and Company, and their Successors, all that Part of Our Dominions in *New-England* in *America*, bounded on the *East* by *Narraganset-River*, commonly called *Narraganset-Bay*, where the said River falleth into the Sea; and on the *North* by the Line of the *Massachusetts-Plantation;* and on the *South* by the Sea; and in Longitude as the Line of the *Massachusetts-Colony*, running from *East* to *West*, *That is to say*, From the said *Narraganset-Bay* on the *East*, to the *South* Sea on the *West* Part, with the *Islands* thereunto adjoining, together with all firm Lands, Soils, Grounds, Havens,

Ports, Rivers, Waters, Fishings, Mines, Minerals, precious Stones, Quarries, and all and singular other Commodities, Jurisdictions, Royalties, Privileges, Franchises, Preheminences, and Hereditaments whatsoever, within the said Tract, Bounds, Lands, and Islands aforesaid, or to them or any of them belonging. *To have and to hold* the same unto the said Governor and Company, their Successors and Assigns for ever, upon Trust, and for the Use and Benefit of Themselves and their Associates, Freemen of the said Colony, their Heirs and Assigns, to be holden of Us, Our Heirs and Successors, as of Our Manor of *East-Greenwich*, in free and common Soccage, and not in Capite, nor by Knights Service, yielding and paying therefore to Us, Our Heirs and Successors, only the Fifth Part of all the Ore of Gold and Silver which from Time to Time, and at all Times hereafter, shall be there gotton, had, or obtained, in Lieu of all Services, Duties, and Demands whatsoever, to be to Us, our Heirs, or Successors therefore, or thereout rendered, made, or paid.

And lastly, We do for Us, our Heirs and Successors, grant to the said Governor and Company, and their Successors, by these Presents, That these Our Letters Patents, shall be firm, good and effectual in the Law, to all Intents, Constructions, and Purposes whatsoever, according to Our true Intent and Meaning herein before declared, as shall be construed, reputed and adjudged most favourable on the Behalf, and for the best Benefit, and Behoof of the said Governor and Company, and their Successors, although express Mention of the true Yearly Value or Certainty of the Premises, or of any of them, or of any other Gifts or Grants by Us, or by any of Our Progenitors, or Predecessors, heretofore made to the said Governor and Company of the *English* Colony of *Connecticut*, in *New-England*, in *America*, aforesaid, in these Presents is not made, or any Statute, Act, Ordinance, Provision, Proclamation, or Restriction heretofore had, made, enacted, ordained, or provided, or any other Matter, Cause, or Thing whatsoever, to the contrary thereof, in any wise notwithstanding. *In Witness whereof*, We have caused these Our Letters to be made Patents. Witness Ourself at *Westminster*, the Three and Twentieth Day of *April*, in the Fourteenth Year of our Reign.

By Writ of Privy Seal,

HOWARD

CONSTITUTION OF CONNECTICUT—1818 *[a]

PREAMBLE

The people of Connecticut, acknowledging with gratitude the good providence of God in having permitted them to enjoy a free govern-

---

* Verified by official edition sent by the Secretary of State to Editor.

[a] As amended and in force January 1, 1906.

This Constitution was framed by a convention which met at Hartford August 26, 1818, and completed its labors September 16, 1818. It was submitted to the people October 5, 1818, and adopted by a vote of 13,918 for, to 12,364 against.

"Journal of the Proceedings of the Convention of Delegates, Convened at Hartford, August 26th, 1818, For the Purpose of Forming A Constitution of

ment, do, in order more effectually to define, secure, and perpetuate the liberties, rights, and privileges which they have derived from their ancestors, hereby, after a careful consideration and revision, ordain and establish the following Constitution and form of civil government:

Article First

declaration of rights

That the great and essential principles of liberty and free government may be recognized and established, we declare,

Section 1. That all men, when they form a social compact, are equal in rights; and that no man or set of men are entitled to exclusive public emoluments or privileges from the community.

Sec. 2. That all political power is inherent in the people, and all free governments are founded on their authority and instituted for their benefit; and that they have at all times an undeniable and indefeasible right to alter their form of government in such a manner as they may think expedient.

Sec. 3. The exercise and enjoyment of religious profession and worship, without discrimination, shall forever be free to all persons in this State, provided that the right hereby declared and established shall not be so construed as to excuse acts of licentiousness, or to justify practices inconsistent with the peace and safety of the State.

Sec. 4. No preference shall be given by law to any Christian sect or mode of worship.

Sec. 5. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

Sec. 6. No law shall ever be passed to curtail or restrain the liberty of speech or of the press.

Sec. 7. In all prosecutions or indictments for libels, the truth may be given in evidence, and the jury shall have the right to determine the law and the facts, under the direction of the court.

Sec. 8. The people shall be secure in their persons, houses, papers, and possessions from unreasonable searches or seizures, and no warrant to search any place, or to seize any person or things, shall issue without describing them as nearly as may be, nor without probable cause supported by oath or affirmation.

Sec. 9. In all criminal prosecutions, the accused shall have the right to be heard by himself and by counsel; to demand the nature

---

Civil Government For the People of the State of Connecticut. Printed by Order of the General Assembly. Hartford: Case, Lockwood & Brainard, Printers, 1873," pp. 101–116.

See also, "Historical Notes On the Constitutions of Connecticut, 1639–1818, Particularly On the Origin and Progress of the Movement Which Resulted in the Convention of 1818 and the Adoption of the Present Constitution. By J. Hammond Trumbull, Hartford, Brown & Gross, 1873," pp. 41–60.

[The Constitution of Connecticut was ratified and approved by the people by a vote of thirteen thousand nine hundred and eighteen in its favor, and twelve thousand three hundred and sixty-one against its ratification. On the twelfth of October, eighteen hundred and eighteen, Governor Wolcott issued his proclamation, at the request of the General Assembly, declaring that the constitution was thenceforth to be observed by all persons, *as the Supreme Law of this State.*]

and cause of the accusation; to be confronted by the witnesses against him; to have compulsory process to obtain witnesses in his favor; and in all prosecutions, by indictment or information, a speedy public trial by an impartial jury. He shall not be compelled to give evidence against himself, nor be deprived of life, liberty, or property, but by due course of law. And no person shall be holden to answer for any crime, the punishment of which may be death or imprisonment for life, unless on a presentment or indictment of a grand jury; except in the land or naval forces, or in the militia when in actual service in time of war or public danger.

Sec. 10. No person shall be arrested, detained, or punished, except in cases clearly warranted by law.

Sec. 11. The property of no person shall be taken for public use without just compensation therefor.

Sec. 12. All courts shall be open, and every person, for an injury done to him in his person, property, or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial, or delay.

Sec. 13. Excessive bail shall not be required, nor excessive fines imposed.

Sec. 14. All prisoners shall, before conviction, be bailable by sufficient sureties, except for capital offenses, where the proof is evident, or the presumption great; and the privileges of the writ of *habeas corpus* shall not be suspended, unless when, in case of rebellion or invasion, the public safety may require it; nor in any case, but by the legislature.

Sec. 15. No person shall be attainted of treason or felony by the legislature.

Sec. 16. The citizens have a right, in a peaceable manner, to assemble for their common good, and to apply to those invested with the powers of government, for redress of grievances, or other proper purposes, by petition, address, or remonstrance.

Sec. 17. Every citizen has a right to bear arms in defense of himself and the State.

Sec. 18. The military shall, in all cases and at all times, be in strict subordination to the civil power.

Sec. 19. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war but in a manner to be prescribed by law.

Sec. 20. No hereditary emoluments, privileges, or honors shall ever be granted or conferred in this State.

Sec. 21. The right of trial by jury shall remain inviolate.

Article Second

of the distribution of powers

The powers of government shall be divided into three distinct departments, and each of them confided to a separate magistracy, to wit: those which are legislative, to one; those which are executive, to another; and those which are judicial, to another.

Article Third

of the legislative department

Section 1. The legislative power of this State shall be vested in two distinct houses or branches; the one to be styled The Senate, the other The House of Representatives, and both together The General Assembly. The style of their laws shall be, *Be it enacted by the Senate and House of Representatives in General Assembly convened.*

Sec. 2. There shall be one stated session of the General Assembly, to be holden in each year, alternately at Hartford and New Haven, on the first Wednesday of May,[a] and at such other times as the General Assembly shall judge necessary; the first session to be holden at Hartford; but the person administering the office of Governor may, on special emergencies, convene the General Assembly at either of said places, at any other time. And in case of danger from the prevalence of contagious diseases in either of said places, or other circumstances, the person administering the office of Governor may by proclamation convene said Assembly at any other place in this State.

Sec. 3. The House of Representatives shall consist of electors residing in towns from which they are elected. The number of Representatives from each town shall be the same as at present practiced and allowed. In case a new town shall hereafter be incorporated, such new town shall be entitled to one representative only;[b] and if such new town shall be made from one or more towns, the town or towns from which the same shall be made shall be entitled to the same number of Representatives as at present allowed, unless the number shall be reduced by the consent of such town or towns.

Sec. 4. The Senate shall consist of twelve members, to be chosen annually by the electors.[c]

Sec. 5. At the meetings of the electors, held in the several towns in this State in April annually, after the election of Representatives, the electors present shall be called upon to bring in their written ballots for Senators.[d] The presiding officer shall receive the votes of the electors, and count and declare them in open meeting. The presiding officer shall also make duplicate lists of the persons voted for, and of the number of votes for each, which shall be certified by the presiding officer; one of which lists shall be delivered to the Town Clerk, and the other, within ten days after said meeting, shall be delivered, under seal, either to the Secretary or to the sheriff of the county in which said town is situated; which list shall be directed to the Secretary, with a superscription expressing the purport of the contents thereof; and each sheriff who shall receive such votes shall, within fifteen days after said meeting, deliver, or cause them to be delivered, to the Secretary.

Sec. 6. The Treasurer, Secretary, and Comptroller, for the time being, shall canvass the votes publicly. The twelve persons having the greatest number of votes for Senators shall be declared to be elected.[e] But in cases where no choice is made by the electors in

---

[a] Altered by amendments of 1872, 1875, 1876, and 1884.
[b] Altered by amendments of 1828, 1836, and 1875.
[c] Altered by amendments of 1828, 1836, 1875, and 1901.
[d] Altered by amendments of 1828, 1875, 1901 and 1905.
[e] Altered by amendments of 1836, 1875, 1884 and 1905.

consequence of an equality of votes, the House of Representatives shall designate, by ballot, which of the candidates having such equal number of votes shall be declared to be elected. The return of votes and the result of the canvass shall be submitted to the House of Representatives, and also to the Senate, on the first day of the session of the General Assembly; and each house shall be the final judge of the election returns, and qualifications of its own members.

SEC. 7. The House of Representatives, when assembled, shall choose a speaker, clerk, and other officers. The Senate shall choose its clerk and other officers except the President. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and compel the attendance of absent members in such manner, and under such penalties, as each house may prescribe.

SEC. 8. Each house shall determine the rules of its own proceedings, punish members for disorderly conduct, and, with the consent of two-thirds, expel a member, but not a seond time for the same cause; and shall have all other powers necessary for a branch of the legislature of a free and independent State.

SEC. 9. Each house shall keep a journal of its proceedings, and publish the same, when required by one-fifth of its members, except such parts as, in the judgment of a majority, require secrecy. The yeas and nays of the members of either house shall, at the desire of one-fifth of those present, be entered on the journals.

SEC. 10. The Senators and Representatives shall, in all cases of civil process, be privileged from arrest during the session of the General Assembly, and for four days before the commencement and after the termination of any session thereof. And for any speech or debate in either house, they shall not be questioned in any other place.

SEC. 11. The debates of each house shall be public, except on such occasions as, in the opinion of the house, may require secrecy.

ARTICLE FOURTH

OF THE EXECUTIVE DEPARTMENT

SECTION 1. The supreme executive power of the State shall be vested in a Governor, who shall be chosen by the electors of the State, and shall hold his office for one year from the first Wednesday of May[a] next succeeding his election, and until his successor be duly qualified. No person who is not an elector of this State, and who has not arrived at the age of thirty years, shall be eligible.

SEC. 2. At the meetings of the electors in the respective towns, in the month of April in each year,[b] immediately after the election of Senators, the presiding officers shall call upon the electors to bring in their ballots[c] for him whom they would elect to be Governor, with his name fairly written. When such ballots shall have been received and counted in the presence of the electors, duplicate lists of the persons voted for, and of the number of votes given for each, shall be made and certified by the presiding officer, one of which lists shall

---

[a] Made to apply to biennial elections by amendment of 1875.
[b] Made to apply to biennial elections by amendment of 1876.
[c] Altered by amendment of 1905.

be deposited in the office of the Town Clerk within three days, and the other within ten days, after said election, shall be transmitted to the Secretary, or to the sheriff of the county in which such election shall have been held. The sheriff receiving said votes shall deliver, or cause them to be delivered, to the Secretary within fifteen days next after said election. The votes so returned shall be counted by the Treasurer, Secretary, and Comptroller, within the month of April. A fair list of the persons and number of votes given for each, together with the returns of the presiding officers, shall be, by the Treasurer, Secretary, and Comptroller, made and laid before the General Assembly, then next to be holden, on the first day of the session thereof; and said Assembly shall, after examination of the same, declare the person whom they shall find to be legally chosen, and give him notice accordingly. If no person shall have a majority of the whole number of said votes,[a] or if two or more shall have an equal and the greatest number of said votes, then said Assembly, on the second day of their session, by joint ballot of both houses, shall proceed, without debate, to choose a Governor from a list of the names of the two persons having the greatest number of votes, or of the names of the persons having an equal and highest number of votes so returned as aforesaid. The General Assembly shall by law prescribe the manner in which all questions concerning the election of a Governor, or Lieutenant-Governor, shall be determined.

SEC. 3. At the annual meetings of the electors, immediately after the election of Governor, there shall also be chosen, in the same manner as is hereinbefore provided for the election of Governor, a Lieutenant-Governor,[b] who shall continue in office for the same time, and possess the same qualifications.

SEC. 4. The compensations of the Governor, Lieutenant-Governor, Senators, and Representatives shall be established by law, and shall not be varied so as to take effect until after an election, which shall next succeed the passage of the law establishing said compensation.

SEC. 5. The Governor shall be Captain-General of the militia of the State, except when called into the service of the United States.

SEC. 6. He may require information in writing from the officers in the executive department on any subject relating to the duties of their respective offices.

SEC. 7. The Governor, in case of a disagreement between the two houses of the General Assembly respecting the time of adjournment, may adjourn them to such time as he shall think proper, not beyond the day of the next stated session.

SEC. 8. He shall, from time to time, give to the General Assembly information of the state of the government, and recommend to their consideration such measures as he shall deem expedient.

SEC. 9. He shall take care that the laws be faithfully executed.

SEC. 10. The Governor shall have power to grant reprieves after conviction, in all cases except those of impeachment, until the end of the next session of the General Assembly, and no longer.

SEC. 11. All commissions shall be in the name and by authority of the State of Connecticut; shall be sealed with the State seal, signed by the Governor, and attested by the Secretary.

---

[a] Altered by amendment of 1901.
[b] Altered by amendment of 1875.

SEC. 12. Every bill which shall have passed both houses of the General Assembly shall be presented to the Governor. If he approves, he shall sign and transmit it to the Secretary, but if not he shall return it to the house in which it originated, with his objections, which shall be entered on the journals of the house, who shall proceed to reconsider the bill. If, after such reconsideration, that house shall again pass it, it shall be sent, with objections, to the other house, which shall also reconsider it. If approved, it shall become a law. But in such cases the votes of both houses shall be determined by yeas and nays; and the names of the members voting for and against the bill shall be entered on the journals of each house respectively. If the bill shall not be returned by the Governor within three days, Sundays excepted, after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the General Assembly, by their adjournment, prevents its return; in which case it shall not be a law.

SEC. 13. The Lieutenant-Governor shall, by virtue of his office, be President of the Senate, and have, when in Committee of the Whole, a right to debate; and when the Senate is equally divided, to give the casting vote.

SEC. 14. In case of the death, resignation, refusal to serve, or removal from office of the Governor, or of his impeachment or absence from the State, the Lieutenant-Governor shall exercise the powers and authority appertaining to the office of Governor, until another be chosen at the next periodical election for Governor, and be duly qualified; or until the Governor, impeached or absent, shall be acquitted or return.

SEC. 15. When the government shall be administered by the Lieutenant-Governor, or he shall be unable to attend as President of the Senate, the Senate shall elect one of their members as President *pro tempore*. And if during the vacancy of the office of Governor the Lieutenant-Governor shall die, resign, refuse to serve, or be removed from office, or if he shall be impeached or absent from the State, the President of the Senate *pro tempore* shall, in like manner, administer the government, until he be superseded by a Governor or Lieutenant-Governor.

SEC. 16. If the Lieutenant-Governor shall be required to administer the Government, and shall, while in such administration, die or resign during the recess of the General Assembly, it shall be the duty of the Secretary, for the time being, to convene the Senate for the purpose of choosing a President *pro tempore*.

SEC. 17. A Treasurer shall annually be chosen by the electors at their meeting in April;[a] and the votes shall be returned, counted, canvassed, and declared in the same manner as is provided for the election of Governor and Lieutenant-Governor, but the votes for Treasurer shall be canvassed by the Secretary and Comptroller only. He shall receive all moneys belonging to the State, and disburse the same only as he may be directed by law. He shall pay no warrant or order for the disbursement of public money until the same has been registered in the office of the Comptroller.

SEC. 18. A Secretary shall be chosen next after the Treasurer, and

[a] Altered by amendments of 1836 and 1875.

in the same manner;[a] and the votes for Secretary shall be returned to, and counted, canvassed, and declared by the Treasurer and Comptroller. He shall have the safe keeping and custody of the public records and documents, and particularly of the acts, resolutions, and orders of the General Assembly, and record the same; and perform all such duties as shall be prescribed by law. He shall be the keeper of the seal of the State, which shall not be altered.

SEC. 19. A Comptroller of the Public Accounts shall be annually appointed by the General Assembly.[a] He shall adjust and settle all public accounts and demands, except grants and orders of the General Assembly. He shall prescribe the mode of keeping and rendering all public accounts. He shall *ex officio* be one of the auditors of the accounts of the Treasurer. The General Assembly may assign to him other duties in relation to his office, and to that of the Treasurer, and shall prescribe the manner in which his duties shall be performed.

SEC. 20. A sheriff shall be appointed in each county by the General Assembly,[b] who shall hold his office for three years,[c] removable by said Assembly, and shall become bound, with sufficient sureties to the Treasurer of the State, for the faithful discharge of the duties of his office, in such manner as shall be prescribed by law. In case the sheriff of any county shall die or resign, the Governor may fill the vacancy occasioned thereby, until the same shall be filled by the General Assembly.

SEC. 21. A statement of all receipts, payments, funds, and debts of the State, shall be published from time to time, in such manner and at such periods as shall be prescribed by law.

ARTICLE FIFTH

OF THE JUDICIAL DEPARTMENT

SECTION 1. The judicial power of the State shall be vested in a Supreme Court of Errors, a Superior Court, and such inferior courts as the General Assembly shall, from time to time, ordain and establish; the powers and jurisdiction of which courts shall be defined by law.

SEC. 2. There shall be appointed in each county a sufficient number of justices of the peace, with such jurisdiction in civil and criminal cases as the General Assembly may prescribe.

SEC. 3. The Judges of the Supreme Court of Errors, of the Superior and inferior courts, and all justices of the peace, shall be appointed by the General Assembly, in such manner as shall by law be prescribed.[d] The Judges of the Supreme Court and the Superior Court shall hold their offices during good behavior,[d] but may be removed by impeachment; and the Governor shall also remove them on the address of two-thirds of the members of each House of the General Assembly; all other judges and justices of the peace shall be appointed annually.[e] No judge or justice of the peace shall be capable of holding his office after he shall arrive at the age of seventy years.

---

[a] Altered by amendments of 1836 and 1875.
[b] Altered by amendments of 1838 and 1886.
[c] Altered by amendment of 1886.
[d] Altered by amendment of 1876.
[e] Altered by amendments.

Article Sixth

of the qualifications of electors

Section 1. All persons who have been, or shall hereafter, previous to the ratification of this Constitution, be admitted freemen, according to the existing laws of this State, shall be electors.

Sec. 2. Every white [a] male citizen of the United States, who shall have gained a settlement in this State, attained the age of twenty-one years, and resided in the town in which he may offer himself to be admitted to the privilege of an elector, at least six months preceding; and have a freehold estate of the yearly value of seven dollars in this State; or, having been enrolled in the militia, shall have performed military duty therein for the term of one year next preceding the time he shall offer himself for admission,[a] or being liable thereto shall have been, by authority of law, excused therefrom; or shall have paid a State tax within the year next preceding the time he shall present himself for such admission; and shall sustain a good moral character, shall, on his taking such oath as may be prescribed by law, be an elector.[a]

Sec. 3. The privileges of an elector shall be forfeited by a conviction of bribery, forgery, perjury, duelling, fraudulent bankruptcy, theft, or other offense for which an infamous punishment is inflicted.[b]

Sec. 4. Every elector shall be eligible to any office in this State, except in cases provided for in this Constitution.

Sec. 5. The selectmen and town clerk of the several towns shall decide on the qualifications of electors, at such times and in such manner as may be prescribed by law.

Sec. 6. Laws shall be made to support the privilege of free suffrage, prescribing the manner of regulating and conducting meetings of the electors, and prohibiting, under adequate penalties, all undue influence therein, from power, bribery, tumult, and other improper conduct.

Sec. 7. In all elections of officers of the State, or members of the General Assembly, the votes of the electors shall be by ballot.[c]

Sec. 8. At all elections of officers of the State, or members of the General Assembly, the electors shall be privileged from arrest during their attendance upon, and going to, and returning from the same, on any civil process.

Sec. 9. The meetings of the electors for the election of the several State officers by law annually to be elected, and members of the General Assembly of this State, shall be holden on the first Monday of April in each year.[d]

Article Seventh

of religion

Section 1. It being the duty of all men to worship the Supreme Being, the Great Creator and Preserver of the Universe, and their right to render that worship in the mode most consistent with the

---

[a] Altered by amendments.
[b] May be restored, amendment Art. xvii.
[c] Altered by amendment of 1905.
[d] Altered by amendments of 1875 and 1884.

dictates of their consciences, no person shall by law be compelled to join or support, nor be classed with, or associated to, any congregation, church, or religious association. But every person now belonging to such congregation, church, or religious association, shall remain a member thereof until he shall have separated himself therefrom in the manner hereinafter provided. And each and every society or denomination of Christians in this State shall have and enjoy the same and equal powers, rights, and privileges; and shall have power and authority to support and maintain the ministers or teachers of their respective denominations, and to build and repair houses for public worship by a tax on the members of any such society only, to be laid by a major vote of the legal voters assembled at any society meeting, warned and held according to law, or in any other manner.

Sec. 2. If any person shall choose to separate himself from the society or denomination of Christians to which he may belong, and shall leave a written notice thereof with the clerk of such society, he shall thereupon be no longer liable for any future expenses which may be incurred by said society.

Article Eighth

of education

Section 1. The charter of Yale College, as modified by agreement with the corporation thereof, in pursuance of an Act of the General Assembly, passed in May, 1792, is hereby confirmed.

Sec. 2. The fund called the School Fund shall remain a perpetual fund, the interest of which shall be inviolably appropriated to the support and encouragement of the public or common schools throughout the State, and for the equal benefit of all the people thereof. The value and amount of said fund shall, as soon as practicable, be ascertained in such manner as the General Assembly may prescribe, published, and recorded in the Comptroller's office, and no law shall ever be made authorizing said fund to be diverted to any other use than the encouragement and support of public or common schools, among the several school societies, as justice and equity shall require.

Article Ninth

of impeachments

Section 1. The House of Representatives shall have the sole power of impeaching.

Sec. 2. All impeachments shall be tried by the Senate. When sitting for that purpose, they shall be on oath or affirmation. No person shall be convicted without the concurrence of two-thirds of the members present. When the Governor is impeached, the Chief Justice shall preside.

Sec. 3. The Governor, and all other executive and judicial officers, shall be liable to impeachment; but judgments in such cases shall not extend further than to removal from office and disqualification to hold any office of honor, trust, or profit under this State. The party convicted shall, nevertheless, be liable and subject to indictment, trial, and punishment according to law.

SEC. 4. Treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court. No conviction of treason or attainder shall work corruption of blood or forfeiture.

ARTICLE TENTH

GENERAL PROVISIONS

SECTION 1. Members of the General Assembly, and all officers, executive and judicial, shall, before they enter on the duties of their respective offices, take the following oath or affirmation, to wit:

You do solemnly swear, or affirm (as the case may be), that you will support the Constitution of the United States and the Constitution of the State of Connecticut, so long as you continue a citizen thereof; and that you will faithfully discharge, according to law, the duties of the office of to the best of your abilities. So help you God.

SEC. 2. Each town shall annually [a] elect selectmen, and such officers of local police as the laws may prescribe.

SEC. 3. The rights and duties of all corporations shall remain as if this Constitution had not been adopted; with the exception of such regulations and restrictions as are contained in this Constitution. All judicial and civil officers now in office, who have been appointed by the General Assembly, and commissioned according to law, and all such officers as shall be appointed by the said Assembly, and commissioned as aforesaid, before the first Wednesday of May next, shall continue to hold their offices until the first day of June next, unless they shall before that time resign, or be removed from office according to law. The Treasurer and Secretary shall continue in office until a Treasurer and Secretary shall be appointed under this Constitution. All military officers shall continue to hold and exercise their respective offices until they shall resign or be removed according to law. All laws not contrary to, or inconsistent with, the provisions of this Constitution shall remain in force until they shall expire by their own limitation, or shall be altered or repealed by the General Assembly, in pursuance of this Constitution. The validity of all bonds, debts, contracts, as well of individuals as of bodies corporate, or the State, of all suits, actions, or rights of action, both in law and equity, shall continue as if no change had taken place. The Governor, Lieutenant-Governor, and General Assembly which is to be formed in October next, shall have and possess all the powers and authorities not repugnant to, or inconsistent with, this Constitution, which they now have and possess, until the first Wednesday of May next.

SEC. 4. No judge of the Superior Court, or of the Supreme Court of Errors; no member of Congress; no person holding any office under the authority of the United States; no person holding the office of Treasurer, Secretary, or Comptroller; no sheriff or sheriff's deputy shall be a member of the General Assembly.

---

[a] Altered by amendment of 1905.

Article Eleventh

of amendments to the constitution

Whenever a majority of the House of Representatives shall deem it necessary to alter or amend this Constitution, they may propose such alteration and amendments; which proposed amendments shall be continued to the next General Assembly, and be published with the laws which may have been passed at the same session; and if two-thirds of each House, at the next session of said Assembly, shall approve the amendments proposed by yeas and nays, said amendments shall, by the Secretary, be transmitted to the town clerk in each town in the State, whose duty it shall be to present the same to the inhabitants thereof, for their consideration, at a town meeting, legally warned and held for that purpose; and if it shall appear, in a manner to be provided by law, that a majority of the electors present at such meetings shall have approved such amendments, the same shall be valid, to all intents and purposes, as a part of this Constitution.

Done in Convention, on the fifteenth day of September, in the year of our Lord one thousand eight hundred and eighteen, and of the Independence of the United States the forty-third.

By order of the Convention,

Oliv: Wolcott, *President.*

James Lanman,
Robert Fairchild,
Clerks.

AMENDMENTS TO THE CONSTITUTION

Article I

(Adopted November, 1828)

From and after the first Wednesday of May, in the year of our Lord one thousand eight hundred and thirty, the Senate of this State shall consist of not less than eighteen nor more than twenty-four members,[a] and be chosen by districts.

Article II

(Adopted November, 1828)

The General Assembly, which shall be holden on the first Wednesday of May, in the year one thousand eight hundred and twenty-nine, shall divide the State into districts for the choice of Senators, and shall determine what number shall be elected in each; which districts shall not be less than eight nor more than twenty-four [a] in number, and shall always be composed of contiguous territory, and in forming them no town shall be divided, nor shall the whole or part of one county be joined to the whole or part of another county to form a district: regard being had to the population in said apportion-

[a] Altered by amendment of 1901.

ment, and in forming said districts, in such manner that no county shall have less than two senators. The districts, when established, shall continue the same until the session of the General Assembly next after the completion of the next census of the United States; which said Assembly shall have power to alter the same, if found necessary, to preserve a proper equality between said districts, in respect to the number of inhabitants therein, according to the principles above recited; after which said districts shall not be altered, nor the number of Senators altered, except at any session of the General Assembly next after the completion of a census of the United States, and then only according to the principles above prescribed.

Article III

(Adopted November, 1828)

At the meeting of the electors on the first Monday of April, in the year one thousand eight hundred and thirty, and annually thereafter, immediately after the choice of Representatives, the electors qualified by law to vote in the choice of such Representatives shall be called upon by the presiding officer in such meeting, in the several towns within their districts, respectively, to bring in their ballots for such person or number of persons to be Senator or Senators for such districts in the next General Assembly, as shall by law be allowed to such districts respectively;[a] which person or persons at the time of holding such meetings shall belong to and reside in the respective districts in which they shall be so balloted for, as aforesaid; and each elector present at such meeting, qualified as aforesaid, may thereupon bring in his ballot or suffrage for such person or persons as he shall choose to be Senators for such district, not exceeding the number by law allowed to the same, with the name or names of such person or persons fairly written on one piece of paper.[b] And the votes so given in shall be received, counted, canvassed, and declared in the same manner now provided by the Constitution for the choice of Senators. The person or persons, not exceeding the number by law allowed to the districts in which such votes shall be given in, having the highest number of votes, shall be declared to be duly elected for such districts; but in the event of an equality of votes between two or more of the persons so voted for, the House of Representatives shall, in the manner provided for by the Constitution, designate which of such person or persons shall be declared to be duly elected.

Article IV

(Adopted November, 1832)

There shall annually[c] be chosen and appointed a Lieutenant-Governor, a Treasurer, and Secretary, in the same manner as is provided in the second section of the fourth article of the Constitution of this State, for the choice and appointment of a Governor.

---

[a] Altered by amendment of 1836.
[b] Altered by amendments of 1836 and 1905.
[c] Altered by amendment of 1875.

Article V

(Adopted November, 1836)

A Comptroller of Public Accounts shall be annually [a] chosen by the electors, at their meeting in April, and in the same manner as the Treasurer and Secretary are chosen, and the votes for Comptroller shall be returned to, and counted, canvassed, and declared by the Treasurer and Secretary.

Article VI

(Adopted November, 1836)

The electors in the respective towns, on the first Monday of April [a] in each year, may vote for Governor, Lieutenant-Governor, Treasurer, Secretary, Senators, and Representatives in the General Assembly successively, or for any number of said officers at the same time, and the General Assembly shall have power to enact laws regulating and prescribing the order and manner of voting for said officers, and also providing for the election of Representatives at some time subsequent to the first Monday of April in all cases when it shall so happen that the electors in any town shall fail on that day to elect the Representative or Representatives to which such town shall be by law entitled: *provided*, that in all elections of officers of the State, or members of the General Assembly, the votes of the electors shall be by ballot,[b] either written or printed.

Article VII

(Adopted October, 1838)

A sheriff shall be appointed in each county by the electors therein, in such manner as shall be prescribed by law, who shall hold his office for three years,[c] removable by the General Assembly, and shall become bound with sufficient sureties to the Treasurer of the State for the faithful discharge of the duties of his office.

Article VIII

(Adopted October, 1845)

Every white [d] male citizen of the United States, who shall have attained the age of twenty-one years, who shall have resided in this State for a term of one year next preceding, and in the town in which he may offer himself to be admitted to the privileges of an elector, at least six month next preceding the time he may so offer himself [e] and shall sustain a good moral character, shall, on his taking such oath as may be prescribed by law, be an elector.

---

[a] Altered by amendment of 1875.
[b] Altered by amendment of 1905.
[c] Altered by amendment of 1886.
[d] Altered by amendments of 1876 and 1897.
[e] Altered by amendment of 1855.

Article IX

(Adopted October, 1850)

The Judges of Probate shall be appointed by the electors residing in the several probate districts, and qualified to vote for Representatives therein, in such manner as shall be prescribed by law.

Article X

(Adopted October, 1850)

The Justices of the Peace for the several towns in this State shall be appointed by the electors in such towns; and the time and manner of their election, the number for each town, and the period for which they shall hold their offices, shall be prescribed by law.

Article XI

(Adopted October, 1855)

Every person shall be able to read any article of the Constitution, or any section of the Statutes of this State, before being admitted an elector.[a]

Article XII

(Adopted October, 1856)

The Judges of the Supreme Court of Errors, and of the Superior Court, appointed in the year 1855, and thereafter, shall hold their offices for the term of eight years, but may be removed by impeachment; and the Governor shall also remove them on the address of two-thirds of each house of the General Assembly. No Judge of the Supreme Court of Errors, or of the Superior Court, shall be capable of holding office after he shall arrive at the age of seventy years.

Article XIII

(Adopted August, 1864)

[Every elector of this State who shall be in the military service of the United States, either as a drafted person or volunteer, during the present rebellion, shall when absent from this State, because of such service, have the same right to vote in any election of State officers, Representatives in Congress, and electors of President and Vice-President of the United States, as he would have if present at the time appointed for such election, in the town in which he resided at the time of his enlistment into such service. This provision shall in no case extend to persons in the regular army of the United States, and shall cease and become inoperative and void upon the termination of the present war.

The General Assembly shall prescribe, by law, in what manner and at what time the votes of electors absent from this State, in the military service of the United States, shall be received, counted, returned, and canvassed.][b]

---

[a] Altered by amendment of 1897.
[b] Now inoperative.

Article XIV

(Adopted October, 1873)

All annual and special sessions of the General Assembly shall, on and after the first Wednesday of May, A. D. 1875, be held at Hartford, but the person administering the office of Governor may, in case of special emergency, convene said Assembly at any other place in this State.

Article XV

(Adopted October, 1874)

The House of Representatives shall consist of electors residing in towns from which they are elected. Every town which now contains, or hereafter shall contain, a population of five thousand, shall be entitled to send two representatives, and every other one shall be entitled to its present representation in the General Assembly. The population of each town shall be determined by the enumeration made under the authority of the census of the United States next before the election of Representatives is held.

Article XVI

Adopted October, 1875

Section 1. A general election for Governor, Lieutenant-Governor, Secretary of State, Treasurer, Comptroller, and members of the General Assembly, shall be held on the Tuesday after the first Monday of November, 1876, and annually thereafter, for such officers as are herein and may be hereafter prescribed.[a]

Sec. 2. The State officers above named, and the Senators from those districts having even numbers, elected on the Tuesday after the first Monday of November, 1876, and those elected biennially thereafter on the Tuesday after the first Monday of November, shall respectively hold their offices for two years from and after the Wednesday following the first Monday of the next succeeding January. The Senators from those districts having odd numbers elected on the Tuesday after the first Monday of November, 1876, shall hold their offices for one year from and after the Wednesday following the first Monday of January, 1877; the electors residing in the senatorial districts having odd numbers shall, on the Tuesday after the first Monday of November, 1877, and biennially thereafter, elect Senators who shall hold their offices for two years from and after the Wednesday following the first Monday of the next succeeding January. The Representatives elected from the several towns on the Tuesday after the first Monday of November, 1876, and those elected annually thereafter, shall hold their offices for one year from and after the Wednesday following the first Monday of the next succeeding January.[a]

Sec. 3. There shall be a stated session of the General Assembly in Hartford on the Wednesday after the first Monday of January, 1877, and annually [a] thereafter on the Wednesday after the first Monday of January.

---

[a] Altered by amendment of 1884.

Sec. 4. The persons who shall be severally elected to the State offices and General Assembly on the first Monday of April, 1876, shall hold such offices only until the Wednesday after the first Monday of January, 1877.

Sec. 5. The General Assembly elected in April, 1876, shall have power to pass such laws as may be necessary to carry into effect the provisions of this amendment.

Article XVII

(Adopted October, 1875)

The General Assembly shall have power, by a vote of two-thirds of the members of both branches, to restore the privileges of an elector to those who may have forfeited the same by a conviction of crime.

Article XVIII

(Adopted October, 1876)

In case a new town shall hereafter be incorporated, such new town shall not be entitled to a Represetative in the General Assembly unless it has at least twenty-five hundred inhabitants, and unless the town from which the major portion of its territory is taken has also at least twenty-five hundred inhabitants; but until such towns shall each have at least twenty-five hundred inhabitants, such new town shall, for the purpose of representation in the General Assembly, be attached to and be deemed to be a part of, the town from which the major portion of its territory is taken, and it shall be an election district of such town for the purpose of representation in the House of Representatives.

Article XIX

(Adopted October, 1876)

The provisions of Section 2, Article IV of the Constitution, and of the amendments thereto, shall apply, *mutatis mutandis*, to all elections held on the Tuesday after the first Monday of November, 1876, and annually thereafter.

Article XX

(Adopted October, 1876)

Judges of the Courts of Common Pleas and of the District Courts shall be appointed for terms of four years. Judges of the City Courts and Police Courts shall be appointed for terms of two years.

Article XXI

(Adopted October, 1876)

Judges of Probate shall be elected by the electors residing in their respective districts on the Tuesday after the first Monday of November, 1876, and biennially thereafter. Those persons elected Judges of Probate on the Tuesday after the first Monday of November, 1876, and those elected biennially thereafter, shall hold their offices for two

years from and after the Wednesday after the first Monday of the next succeeding January. Those persons elected Judges of Probate on the first Monday of April, 1876, shall hold their offices only until the Wednesday after the first Monday of January, 1877.

Article XXII

(Adopted October, 1876)

The compensation of members of the General Assembly shall not exceed three hundred dollars per annum, and one mileage each way for each session, at the rate of twenty-five cents per mile.[a]

Article XXIII

(Adopted October, 1876)

That Article VIII of the amendments to the Constitution be amended by erasing the word " white " from the first line.

Article XXIV

(Adopted October, 1877)

Neither the General Assembly nor any County, City, Borough, Town, or School District shall have power to pay or grant any extra compensation to any public officer, employe, agent, or servant, or increase the compensation of any public officer or employe, to take effect during the continuance in office of any person whose salary might be increased thereby, or increase the pay or compensation of any public contractor above the amount specified in the contract.

Article XXV

(Adopted October, 1877)

No County, City, Town, Borough, or other municipality shall ever subscribe to the capital stock of any railroad corporation, or become a purchaser of the bonds, or make donation to, or loan its credit, directly or indirectly, in aid of any such corporation; but nothing herein contained shall affect the validity of any bonds or debts incurred under existing laws, nor be construed to prohibit the General Assembly from authorizing any Town or City to protect, by additional appropriations of money or credit, any railroad debt contracted prior to the adoption of this amendment.

Article XXVI

(Adopted October, 1880)

The Judges of the Supreme Court of Errors and of the Superior Court shall, upon nomination of the Governor, be appointed by the General Assembly, in such manner as shall by law be prescribed.

---

[a] Altered by amendment of 1884.

Article XXVII

(Adopted October, 1884)

Section 1. A general election for Governor, Lieutenant-Governor, Secretary, Treasurer, Comptroller, and members of the General Assembly, shall be held on the Tuesday after the first Monday of November, 1886, and biennially thereafter for such officers as are herein and may be hereafter prescribed.

Sec. 2. The State officers above named, and members of the General Assembly, elected on the Tuesday after the first Monday of November, 1886, and those elected biennially thereafter on the Tuesday after the first Monday of November, shall hold their respective offices from the Wednesday following the first Monday of the next succeeding January until the Wednesday after the first Monday of the third succeeding January, and until their successors are duly qualified.

Sec. 3. The compensation of members of the General Assembly shall not exceed three hundred dollars for the term for which they are elected, and one mileage each way for the regular session, at the rate of twenty-five cents per mile; they shall also receive one mileage at the same rate for attending any extra session called by the Governor.

Sec. 4. The regular sessions of the General Assembly shall commence on the Wednesday following the first Monday of the January next succeeding the election of its members.

Sec. 5. The Senators elected on the Tuesday after the first Monday of November, 1885, shall hold their offices only until the Wednesday after the first Monday of January, 1887.

Article XXVIII

(Adopted October, 1886)

Sheriffs shall be elected in the several counties on the Tuesday after the first Monday of November, 1886, and quadrennially thereafter, for the term of four years, commencing on the first day of June following their election.

Article XXIX

(Adopted October, 1897)

Every person shall be able to read in the English language any article of the Constitution or any section of the Statutes of this State before being admitted an elector.

Article XXX

(Adopted October, 1901)

In the election for Governor, Lieutenant-Governor, Secretary, Treasurer, Comptroller, and Attorney-General, the person found by the General Assembly, in the manner provided in the fourth article of the Constitution of this State, to have received the greatest number of votes for each of said offices respectively, shall be declared by said Assembly to be elected. But if two or more persons shall be

found to have an equal and the greatest number of votes for any of said offices, then the General Assembly, on the second day of its session, by joint ballot of both houses, shall proceed without debate to choose said officer from a list of the names of the persons found to have an equal and greatest number of votes for said office.

Article XXXI

(Adopted October, 1901)

Section 1. From and after the Wednesday after the first Monday of January, 1905, the Senate shall be composed of not less than twenty-four and not more than thirty-six members, who shall be elected at the electors' meetings held biennially on the Tuesday after the first Monday in November.

Sec. 2. The General Assembly which shall be held on the Wednesday after the first Monday of January, 1903, shall divide the State into senatorial districts, as hereinafter provided; the number of such districts shall not be less than twenty-four nor more than thirty-six, and each district shall elect only one Senator. The districts shall always be composed of contiguous territory, and in forming them regard shall be had to population in the several districts, that the same may be as nearly equal as possible under the limitations of this amendment. Neither the whole or a part of one county shall be joined to the whole or a part of another county to form a district, and no town shall be divided, unless for the purpose of forming more than one district wholly within such town, and each county shall have at least one Senator. The districts, when established as hereinafter provided, shall continue the same until the session of the General Assembly next after the completion of the next census of the United States, which General Assembly shall have power to alter the same, if found necessary to preserve a proper equality of population in each district, but only in accordance with the principles above recited; after which said districts shall not be altered, nor the number of Senators altered, except at a session of the General Assembly next after the completion of a census of the United States, and then only in accordance with the principles hereinbefore provided.

Article XXXII

(Adopted October, 1905)

Each town shall, annually, or biennially, as the electors of the town may determine, elect selectmen and such officers of local police as the laws may prescribe.

Article XXXIII

Voting machines or other mechanical devices for voting may be used in all elections in this state, under such regulations as may be prescribed by law; provided, however, that the right of secret voting shall be preserved.

DELAWARE

For organic acts relating to the land now included within Delaware, see in other parts of this work:

Virginia Charter of 1606 (Virginia, p. 3783).
Dutch West India Company, 1621 (p. 59).
Maryland Charter, 1632 (Maryland, p. 1669).
Grant to the Duke of York, 1664 (Maine, p. 1637).
Grant to the Duke of York, 1674 (Maine, p. 1641).
Grant to Penn, 1681 (Pennsylvania, p. 3035).
Concessions to Pennsylvania, 1681 (Pennsylvania, p. 3044).
Frames of Government of Pennsylvania, 1682, 1683, 1696 (Pennsylvania, pp. 3052, 3064, 3070).

For the charter to the Swedish South Company see Hazard, Annals of Pennsylvania, pp. 16–20, Jameson, William Usselinx, 114–117.

CHARTER OF DELAWARE—1701 *[a]

WILLIAM PENN, Proprietary and Governor of the Province of *Pennsylvania* and Territories thereunto belonging, To all to whom these Presents shall come, sendeth Greeting.

WHEREAS King CHARLES the Second, by his Letter Patents, under the Great Seal of *England*, bearing Date the *Fourth* Day of *March*, in the Year *One Thousand Six Hundred and Eighty*, was graciously pleased to give and grant unto me, and my Heirs and Assigns for ever, this Province of *Pennsylvania*, with divers great Powers and Jurisdictions for the well Government thereof.

AND WHEREAS the King's dearest Brother, JAMES Duke of YORK and ALBANY, &c. by his Deeds of Feoffment, under his Hand and Seal duly perfected, bearing Date the *Twenty-Fourth* Day of *August*, *One Thousand Six Hundred Eighty and Two*, did grant unto me, my Heirs and Assigns, all that Tract of Land, now called the Territories of *Pennsylvania*, together with Powers and Jurisdictions for the good Government thereof.

AND WHEREAS, for the Encouragement of all the Freemen and Planters, that might be concerned in the said Province and Territories, and for the good Government thereof, I the said WILLIAM PENN, in the Year *One Thousand Six Hundred Eighty and Three*, for me, my Heirs and Assigns, did grant and confirm unto all the Freemen, Planters and Adventurers therein, divers Liberties, Franchises and Properties, as by the said Grant, entituled, *The* FRAME *of*

* Laws of the Government of New Castle, Kent, and Sussex Upon Delaware, Published by Order of the Assembly, Philadelphia: Printed and sold by B. Franklin, at the New Printing Office, Market-Street, MDCCXLI, 3–8.

[a] The counties of "New-Castle, Kent and Sussex, upon Delaware," were granted by James Duke of York, to William Penn in 1682, and were known as "the Territories."

the Government of the Province of Pennsylvania, *and Territories thereunto belonging, in* America, may appear; which Charter or Frame being found, in some Parts of it, not so suitable to the present Circumstances of the Inhabitants, was in the *Third* Month, in the Year *One Thousand Seven Hundred*, delivered up to me, by *Six* Parts of *Seven* of the Freemen of this Province and Territories, in General Assembly met, Provision being made in the said Charter, for that End and Purpose.

And whereas I was then pleased to promise, That I would restore the said Charter to them again, with necessary Alterations, or in lieu thereof, give them another, better adapted to answer the present Circumstances and Conditions of the said Inhabitants; which they have now, by their Representatives in General Assembly met at *Philadelphia*, requested me to grant.

Know ye therefore, That for the further Well-being and good Government of the said Province, and Territories; and in Pursuance of the Rights and Powers before-mentioned, I the said *William Penn* do declare, grant and confirm, unto all the Freemen, Planters and Adventurers, and other Inhabitants in this Province and Territories, these following Liberties, Franchises and Privileges, so far as in me lieth, to be held, enjoyed and kept, by the Freemen, Planters and Adventurers, and other Inhabitants of and in the said Province and Territories thereunto annexed, for ever.

First

Because no People can be truly happy, though under the greatest Enjoyment of Civil Liberties, if abridged of the Freedom of their Consciences, as to their Religious Profession and Worship: And Almighty God being the only Lord of Conscience, Father of Lights and Spirits; and the Author as well as Object of all divine Knowledge, Faith and Worship, who only doth enlighten the Minds, and persuade and convince the Understandings of People, I do hereby grant and declare, That no Person or Persons, inhabiting in this Province or Territories, who shall confess and acknowledge *One* almighty God, the Creator, Upholder and Ruler of the World; and professes him or themselves obliged to live quietly under the Civil Government, shall be in any Case molested or prejudiced, in his or their Person or Estate, because of his or their consciencious Persuasion or Practice, nor be compelled to frequent or maintain any religious Worship, Place or Ministry, contrary to his or their Mind, or to do or suffer any other Act or Thing, contrary to their religious Persuasion.

And that all Persons who also profess to believe in *Jesus Christ*, the Saviour of the World, shall be capable (notwithstanding their other Persuasions and Practices in Point of Conscience and Religion) to serve this Government in any Capacity, both legislatively and executively, he or they solemnly promising, when lawfully required, Allegiance to the King as Sovereign, and Fidelity to the Proprietary and Governor, and taking the Attests as now established by the Law made at *Newcastle*, in the Year *One Thousand and Seven Hundred*, entituled, *An Act directing the Attests of several Officers and Ministers*, as now amended and confirmed this present Assembly.

II.

For the well governing of this Province and Territories, there shall be an Assembly yearly chosen, by the Freemen thereof, to consist of *Four* Persons out of each County, of most Note for Virtue, Wisdom and Ability, (or of a greater Number at any Time, as the Governor and Assembly shall agree) upon the *First* Day of *October* for ever; and shall sit on the *Fourteenth* Day of the same Month, at *Philadelphia*, unless the Governor and Council for the Time being, shall see Cause to appoint another Place within the said Province or Territories: Which Assembly shall have Power to chuse a Speaker and other their Officers; and shall be Judges of the Qualifications and Elections of their own Members; sit upon their own Adjournments; appoint Committees; prepare Bills in order to pass into Laws; impeach Criminals, and redress Grievances; and shall have all other Powers and Privileges of an Assembly, according to the Rights of the free-born Subjects of *England*, and as is usual in any of the King's Plantations in *America*.

And if any County or Counties, shall refuse or neglect to chuse their respective Representatives as aforesaid, or if chosen, do not meet to serve in Assembly, those who are so chosen and met, shall have the full Power of an Assembly, in as ample Manner as if all the Representatives had been chosen and met, provided they are not less than *Two Thirds* of the whole Number that ought to meet.

And that the Qualifications of Electors and Elected, and all other Matters and Things relating to elections of Representatives to serve in Assemblies, though not herein particularly expressed, shall be and remain as by a Law of this Government, made at *Newcastle*, in the Year *One Thousand Seven Hundred*, entituled, *An Act to ascertain the Number of Members of Assembly, and to regulate the Elections.*

III.

That the Freemen in each respective County, at the Time and Place of Meeting for electing their Representatives to serve in Assembly, may as often as there shall be Occasion, chuse a double Number of Persons to present to the Governor for Sheriffs and Coroners, to serve for *Three* Years, if so long they behave themselves well; out of which respective Elections and Presentments, the Governor shall nominate and commissionate one for each of the said Offices, the *Third* Day after such Presentment, or else the *First* named in such Presentment, for each Office as aforesaid, shall stand and serve in that Office for the Time before respectively limited; and in case of Death or Default, such Vacancies shall be supplied by the Governor, to serve to the End of the said Term.

Provided always, That if the said Freemen shall at any Time neglect or decline to chuse a Person or Persons for either or both the aforesaid Offices, then, and in such Case, the Persons that are or shall be in the respective Offices of Sheriffs or Coroners, at the Time of Election, shall remain therein, until they shall be removed by another Election as aforesaid.

And that the Justices of the respective Counties shall or may nominate and present to the Governor *Three* Persons, to serve for

Clerk of the Peace for the said County, when there is a Vacancy, one of which the Governor shall commissionate within *Ten* Days after such Presentment, or else the *First* nominated shall serve in the said Office during good Behaviour.

IV.

That the Laws of this Government shall be in this Stile, viz. *By the Governor, with the Consent and Approbation of the Freemen in General Assembly met;* and shall be, after Confirmation by the Governor, forthwith recorded in the Rolls Office, and kept at *Philadelphia*, unless the Governor and Assembly shall agree to appoint another Place.

V.

That all Criminals shall have the same Privileges of Witnesses and Council as their Prosecutors.

VI.

That no Person or Persons shall or may, at any Time hereafter, be obliged to answer any Complaint, Matter or Thing whatsoever, relating to Property, before the Governor and Council, or in any other Place, but in ordinary Course of Justice, unless Appeals thereunto shall be hereafter by Law appointed.

VII.

That no Person within this Government, shall be licensed by the Governor to keep an Ordinary, Tavern, or House of publick Entertainment, but such who are first recommended to him, under the Hands of the Justices of the respective Counties, signed in open Court; which Justices are and shall be hereby impowered, to suppress and forbid any Person, keeping such Publick-House as aforesaid, upon their Misbehaviour, on such Penalties as the Law doth or shall direct; and to recommend others, from time to time, as they shall see Occasion.

VIII.

If any Person, through Temptation or Melancholy, shall destroy himself, his Estate, real and personal, shall notwithstanding descend to his Wife and Children, or Relations, as if he had died a natural Death; and if any Person shall be destroyed or killed by Casualty or Accident, there shall be no Forfeiture to the Governor by Reason thereof.

And no Act, Law or Ordinance whatsoever, shall at any Time hereafter, be made or done, to alter, change or diminish the Form or Effect of this Charter, or of any Part or Clause therein, contrary to the true Intent and Meaning thereof, without the Consent of the Governor for the Time being, and *Six* Parts of *Seven* of the Assembly met.

But, because the Happiness of Mankind depends so much upon the

Enjoying of Liberty of their Consciences, as aforesaid, I do hereby solemnly declare, promise and grant, for me, my Heirs and Assigns, That the *First* Article of this Charter relating to Liberty of Conscience, and every Part and Clause therein, according to the true Intent and Meaning thereof, shall be kept and remain, without any Alteration, inviolably for ever.

And lastly, I the said *William Penn*, Proprietary and Governor of the Province of *Pennsylvania*, and Territories thereunto belonging, for myself, my Heirs and Assigns, have solemnly declared, granted and confirmed, and do hereby solemnly declare, grant and confirm, That neither I, my Heirs or Assigns, shall procure or do any Thing or Things whereby the Liberties in this Charter contained and expressed, nor any Part thereof, shall be infringed or broken: And if any thing shall be procured or done, by any Person or Persons, contrary to these Presents, it shall be held of no Force or Effect.

In witness whereof, I the said *William Penn*, at *Philadelphia* in *Pennsylvania*, have unto this present Charter of Liberties, set my Hand and broad Seal, this *Twenty-Eighth* Day of *October*, in the Year of Our Lord *One Thousand Seven Hundred and One*, being the *Thirteenth* Year of the Reign of King William the Third, over *England*, *Scotland*, *France*, and *Ireland*, &c., and the *Twenty-First* Year of my Government.

And notwithstanding the Closure and Test of this present Charter as aforesaid, I think fit to add this following Proviso thereunto, as Part of the same, *That is to say*, That notwithstanding any Clause or Clauses in the above-mentioned Charter, obliging the Province and Territories to join together in Legislation, I am content, and do hereby declare, that if the Representatives of the Province and Territories shall not hereafter agree to join together in Legislation, and that the same shall be signified unto me, or my Deputy, in open Assembly, or otherwise, from under the Hands and Seals of the Representatives, for the Time being, of the Province and Territories, or the major part of either of them, at any Time within *Three* Years from the Date hereof, that in such Case, the Inhabitants of each of the *Three* Counties of this Province, shall not have less than *Eight* Persons to represent them in Assembly, for the Province; and the Inhabitants of the Town of *Philadelphia* (when the said Town is incorporated) *Two* Persons to represent them in Assembly; and the Inhabitants of each County in the Territories, shall have as many Persons to represent them in a distinct Assembly for the Territories, as shall be by them requested as aforesaid.

Notwithstanding which Separation of the Province and Territories, in Respect of Legislation, I do hereby promise, grant and declare, That the Inhabitants of both Province and Territories, shall separately enjoy all other Liberties, Privileges and Benefits, granted jointly to them in this Charter, any Law, Usage or Custom of this Government, heretofore made and practised, or any Law made and passed by this General Assembly, to the Contrary hereof, notwithstanding.

William Penn.

This Charter of Privileges being distinctly read in Assembly, and the whole and every part thereof being approved and agreed to, by us, we do thankfully receive the same from our Proprietary and Governor, at Philadelphia, this Twenty-Eighth Day of October, One Thousand Seven Hundred and One. Signed on Behalf, and by Order of the Assembly,

per JOSEPH GROWDON, *Speaker.*

EDWARD SHIPPEN	GRIFFITH OWEN
PHINEAS PEMBERTON	CALEB PUSEY
SAMUEL CARPENTER	THOMAS STORY

Proprietary and Governor's Council.

CONSTITUTION OF DELAWARE—1776 * [a]

The Constitution, or System of Government, agreed to and resolved upon by the Representatives in full Convention of the Delaware State, formerly styled "The Government of the Counties of New Castle, Kent, and Sussex, upon Delaware," the said Representatives being chosen by the Freemen of the said State for that express Purpose.

ARTICLE 1. The government of the counties of New Castle, Kent and Sussex, upon Delaware, shall hereafter in all public and other writings be called The Delaware State.

ART. 2. The Legislature shall be formed of two distinct branches; they shall meet once or oftener in every year, and shall be called, "The General Assembly of Delaware."

ART. 3. One of the branches of the Legislature shall be called, "The House of Assembly," and shall consist of seven Representatives to be chosen for each county annually of such persons as are freeholders of the same.

ART. 4. The other branch shall be called "The council," and consist of nine members; three to be chosen for each county at the time of the first election of the assembly, who shall be freeholders of the county for which they are chosen, and be upwards of twenty-five years of age. At the end of one year after the general election, the councillor who had the smallest number of votes in each county shall be displaced, and the vacancies thereby occasioned supplied by the freemen of each county choosing the same or another person at a new election in manner aforesaid. At the end of two years after the first general election, the councillor who stood second in number of votes in each county shall be displaced, and the vacancies thereby occasioned supplied by a new election in manner aforesaid. And at the end of three years from the first general election, the councillor who had the greatest number of votes in each county shall be displaced, and the vacancies thereby occasioned supplied by a new elec-

* Verified from "The Constitutions of the Several Independent States of America, Published by order of Congress, Boston: Printed by Norman and Bowen, 1785."

[a] This constitution was framed by a Convention which assembled at New Castle, August 27, 1776, in accordance with the recommendation of the Continental Congress that the people of the Colonies should form independent State Governments. It was not submitted to the people but was proclaimed September 21, 1776.

tion in manner aforesaid. And this rotation of a councillor being displaced at the end of three years in each county, and his office supplied by a new choice, shall be continued afterwards in due order annually forever, whereby, after the first general election, a councillor will remain in trust for three years from the time of his being elected, and a councillor will be displaced, and the same or another chosen in each county at every election.

ART. 5. The right of suffrage in the election of members for both houses shall remain as exercised by law at present; and each house shall choose its own speaker, appoint its own officers, judge of the qualifications and elections of its own members, settle its own rules of proceedings, and direct writs of election for supplying intermediate vacancies. They may also severally expel any of their own members for misbehavior, but not a second time in the same sessions for the same offence, if reelected; and they shall have all other powers necessary for the legislature of a free and independent State.

ART. 6. All money-bills for the support of government shall originate in the house of assembly, and may be altered, amended, or rejected by the legislative council. All other bills and ordinances may take rise in the house of assembly or legislative council, and may be altered, amended, or rejected by either.

ART. 7. A president or chief magistrate shall be chosen by joint ballot of both houses, to be taken in the house of assembly, and the box examined by the speakers of each house in the presence of the other members, and in case the numbers for the two highest in votes should be equal, then the speaker of the council shall have an additional casting voice, and the appointment of the person who has the majority of votes shall be entered at large on the minutes and journals of each house, and a copy thereof on parchment, certified and signed by the speakers respectively, and sealed with the great seal of the State, which they are hereby authorized to affix, shall be delivered to the person so chosen president, who shall continue in that office three years, and until the sitting of the next general assembly and no longer, nor be eligible until the expiration of three years after he shall have been out of that office. An adequate but moderate salary shall be settled on him during his continuance in office. He may draw for such sums of money as shall be appropriated by the general assembly, and be accountable to them for the same; he may, by and with the advice of the privy council, lay embargoes or prohibit the exportation of any commodity for any time not exceeding thirty days in the recess of the general assembly; he shall have the power of granting pardons or reprieves, except where the prosecution shall be carried on by the house of assembly, or the law shall otherwise direct, in which cases no pardon or reprieve shall be granted, but by a resolve of the house of assembly, and may exercise all the other executive powers of government, limited and restrained as by this constitution is mentioned, and according to the laws of the State. And on his death, inability, or absence from the State, the speaker of the legislative council for the time being shall be vice-president, and in case of his death, inability, or absence from the State, the speaker of the house of assembly shall have the powers of a president, until a new nomination is made by the general assembly.

ART. 8. A privy council, consisting of four members, shall be chosen by ballot, two by the legislative council and two by the house

of assembly: *Provided*, That no regular officer of the army or navy in the service and pay of the continent, or of this, or of any other State, shall be eligible; and a member of the legislative council or of the house of assembly being chosen of the privy council, and accepting thereof, shall thereby lose his seat. Three members shall be a quorum, and their advice and proceedings shall be entered of record, and signed by the members present, (to any part of which any member may enter his dissent,) to be laid before the general assembly when called for by them. Two members shall be removed by ballot, one by the legislative council and one by the house of assembly, at the end of two years, and those who remain the next year after, who shall severally be ineligible for the three next years. The vacancies, as well as those occasioned by death or incapacity, shall be supplied by new elections in the same manner; and this rotation of a privy councillor shall be continued afterwards in due order annually forever. The president may by summons convene the privy council at any time when the public exigencies may require, and at such place as he shall think most convenient, when and where they are to attend accordingly.

Art. 9. The president, with the advice and consent of the privy council, may embody the militia, and act as captain-general and commander-in-chief of them, and the other military force of this State, under the laws of the same.

Art. 10. Either house of the general assembly may adjourn themselves respectively. The president shall not prorogue, adjourn, or dissolve the general assembly, but he may, with the advice of the privy council, or on the application of a majority of either house, call them before the time they shall stand adjourned: and the two houses shall always sit at the same time and place, for which purpose immediately after every adjournment the speaker of the house of assembly shall give notice to the speaker of the other house of the time to which the house of assembly stands adjourned.

Art. 11. The Delegates for Delaware to the Congress of the United States of America shall be chosen annually, or superseded in the mean time, by joint ballot of both houses in the general assembly.

Art. 12. The president and general assembly shall by joint ballot appoint three justices of the supreme court for the State, one of whom shall be chief justice, and a judge of admiralty, and also four justices of the courts of common pleas and orphans' courts for each county, one of whom in each court shall be styled "*chief justice*," (and in case of division on the ballot the president shall have an additional casting voice,) to be commissioned by the president under the great seal, who shall continue in office during good behavior; and during the time the justices of the said supreme court and courts of common pleas remain in office, they shall hold none other except in the militia. Any one of the justices of either of said courts shall have power, in case of the noncoming of his brethren, to open and adjourn the court. An adequate fixed but moderate salary shall be settled on them during their continuance in office. The president and privy council shall appoint the secretary, the attorney-general, registers for the probate of wills and granting letters of administration, registers in chancery, clerks of the courts of common pleas and orphans' courts, and clerks of the peace, who shall be commissioned as aforesaid, and

remain in office during five years, if they behave themselves well; during which time the said registers in chancery and clerks shall not be justices of either of the said courts of which they are officers, but they shall have authority to sign all writs by them issued, and take recognizances of bail. The justices of the peace shall be nominated by the house of assembly; that is to say, they shall name twenty-four persons for each county, of whom the president, with the approbation of the privy council, shall appoint twelve, who shall be commissioned as aforesaid, and continue in office during seven years, if they behave themselves well; and in case of vacancies, or if the legislature shall think proper to increase the number, they shall be nominated and appointed in like manner. The members of the legislative and privy councils shall be justices of the peace for the whole State, during their continuance in trust; and the justices of the courts of common pleas shall be conservators of the peace in their respective counties.

ART. 13. The justices of the courts of common pleas and orphans' courts shall have the power of holding inferior courts of chancery, as heretofore, unless the legislature shall otherwise direct.

ART. 14. The clerks of the supreme court shall be appointed by the chief justice thereof, and the recorders of deeds, by the justices of the courts of common pleas for each county severally, and commissioned by the president, under the great seal, and continue in office five years, if they behave themselves well.

ART. 15. The sheriffs and coroners of the respective counties shall be chosen annually, as heretofore; and any person, having served three years as sheriff, shall be ineligible for three years after; and the president and privy council shall have the appointment of such of the two candidates, returned for said offices of sheriff and coroner, as they shall think best qualified, in the same manner that the governor heretofore enjoyed this power.

ART. 16. The general assembly, by joint ballot, shall appoint the generals and field-officers, and all other officers in the army or navy of this State; and the president may appoint, during pleasure, until otherwise directed by the legislature, all necessary civil officers not hereinbefore mentioned.

ART. 17. There shall be an appeal from the supreme court of Delaware, in matters of law and equity, to a court of seven persons, to consist of the president for the time being, who shall preside therein, and six others, to be appointed, three by the legislative council, and three by the house of assembly, who shall continue in office during good behavior, and be commissioned by the president, under the great seal; which court shall be styled the "*court of appeals*," and have all the authority and powers heretofore given by law in the last resort to the King in council, under the old government. The secretary shall be the clerk of this court; and vacancies therein occasioned by death or incapacity, shall be supplied by new elections, in manner aforesaid.

ART. 18. The justices of the supreme court and courts of common pleas, the members of the privy council, the secretary, the trustees of the loan office, and clerks of the court of common pleas, during their continuance in office, and all persons concerned in any army or navy contracts, shall be ineligible to either house of assembly; and any member of either house accepting of any other of the offices herein-

before mentioned (excepting the office of a justice of the peace) shall have his seat thereby vacated, and a new election shall be ordered.

ART. 19. The legislative council and assembly shall have the power of making the great seal of this State, which shall be kept by the president, or, in his absence, by the vice-president, to be used by them as occasion may require. It shall be called "*The Great Seal of the Delaware State*," and shall be affixed to all laws and commissions.

ART. 20. Commissions shall run in the name of "The Delaware State," and bear test by the president. Writs shall run in the same manner, and bear test in the name of the chief-justice, or justice first named in the commissions for the several courts, and be sealed with the public seals of such courts. Indictments shall conclude, "*against the peace and dignity of the State.*"

ART. 21. In case of vacancy of the offices above directed to be filled by the president and general assembly, the president and privy council may appoint others in their stead until there shall be a new election.

ART. 22. Every person who shall be chosen a member of either house, or appointed to any office or place of trust, before taking his seat, or entering upon the execution of his office, shall take the following oath, or affirmation, if conscientiously scrupulous of taking an oath, to wit:

"I, A B, will bear true allegiance to the Delaware State, submit to its constitution and laws, and do no act wittingly whereby the freedom thereof may be prejudiced."

And also make and subscribe the following declaration, to wit:

"I, A B, do profess faith in God the Father, and in Jesus Christ His only Son, and in the Holy Ghost, one God, blessed for evermore; and I do acknowledge the holy scriptures of the Old and New Testament to be given by divine inspiration."

And all officers shall also take an oath of office.

ART. 23. The president, when he is out of office, and within eighteen months after, and all others offending against the State, either by maladministration, corruption, or other means, by which the safety of the Commonwealth may be endangered, within eighteen months after the offence committed, shall be impeachable by the house of assembly before the legislative council; such impeachment to be prosecuted by the attorney-general, or such other person or persons as the house of assembly may appoint, according to the laws of the land. If found guilty, he or they shall be either forever disabled to hold any office under government, or removed from office *pro tempore*, or subjected to such pains and penalties as the laws shall direct. And all officers shall be removed on conviction of misbehavior at common law, or on impeachment, or upon the address of the general assembly.

ART. 24. All acts of assembly in force in this State on the 15th day of May last (and not hereby altered, or contrary to the resolutions of Congress or of the late house of assembly of this State) shall so continue, until altered or repealed by the legislature of this State, unless where they are temporary, in which case they shall expire at the times respectively limited for their duration.

ART. 25. The common law of England, as well as so much of the

statute law as has been heretofore adopted in practice in this State, shall remain in force, unless they shall be altered by a future law of the legislature; such parts only excepted as are repugnant to the rights and privileges contained in this constitution, and the declaration of rights, &c., agreed to by this convention.

ART. 26. No person hereafter imported into this State from Africa ought to be held in slavery under any pretence whatever; and no negro, Indian, or mulatto slave ought to be brought into this State, for sale, from any part of the world.

ART. 27. The first election for the general assembly of this State shall be held on the 21st day of October next, at the court-houses in the several counties, in the manner heretofore used in the election of the assembly, except as to the choice of inspectors and assessors, where assessors have not been chosen on the 16th day of September, instant, which shall be made on the morning of the day of election, by the electors, inhabitants of the respective hundreds in each county. At which time the sheriffs and coroners, for the said counties respectively, are to be elected; and the present sheriffs of the counties of Newcastle and Kent may be rechosen to that office until the 1st day of October, A. D. 1779; and the present sheriff for the county of Sussex may be rechosen to that office until the 1st day of October, A. D. 1778, provided the freemen think proper to reëlect them at every general election; and the present sheriffs and coroners, respectively, shall continue to exercise their offices as heretofore, until the sheriffs and coroners, to be elected on the said 21st day of October, shall be commissioned and sworn into office. The members of the legislative council and assembly shall meet, for transacting the business of the State, on the 28th day of October next, and continue in office until the 1st day of October, which will be in the year 1777; on which day, and on the 1st day of October in each year forever after, the legislative council, assembly, sheriffs, and coroners shall be chosen by ballot, in manner directed by the several laws of this State, for regulating elections of members of assembly and sheriffs and coroners; and the general assembly shall meet on the 20th day of the same month for the transacting the business of the State; and if any of the said 1st and 20th days of October should be Sunday, then, and in such case, the elections shall be held, and the general assembly meet, the next day following.

ART. 28. To prevent any violence or force being used at the said elections, no person shall come armed to any of them, and no muster of the militia shall be made on that day; nor shall any battalion or company give in their votes immediately succeeding each other, if any other voter, who offers to vote, objects thereto; nor shall any battalion or company, in the pay of the continent, or of this or any other State, be suffered to remain at the time and place of holding the said elections, nor within one mile of the said places respectively, for twenty-four hours before the opening said elections, nor within twenty-four hours after the same are closed, so as in any manner to impede the freely and conveniently carying on the said election: *Provided always*, That every elector may, in a peaceable and orderly manner, give in his vote on the said day of election.

ART. 29. There shall be no establishment of any one religious sect in this State in preference to another; and no clergyman or preacher

of the gospel, of any denomination, shall be capable of holding any civil office in this State, or of being a member of either of the branches of the legislature, while they continue in the exercise of the pastorial function.

Art. 30. No article of the declaration of rights and fundamental rules of this State, agreed to by this convention, nor the first, second, fifth, (except that part thereof that relates to the right of sufferage,) twenty-sixth, and twenty-ninth articles of this constitution, ought ever to be violated on any pretence whatever. No other part of this constitution shall be altered, changed, or diminished without the consent of five parts in seven of the assembly, and seven members of the legislative council.

George Read, *President.*

Attest:

James Booth, *Secretary.*

Friday, September 10, 1776.

CONSTITUTION OF DELAWARE—1792[a]

We, the people, hereby ordain and establish this constitution of government for the State of Delaware.

Through divine goodness all men have, by nature, the rights of worshipping and serving their Creator according to the dictates of their consciences, of enjoying and defending life and liberty, of acquiring and protecting reputation and property, and, in general, of attaining objects suitable to their condition, without injury by one to another; and as these rights are essential to their welfare, for the due exercise thereof, power is inherent in them; and, therefore, all just authority in the institutions of political society is derived from the people, and established with their consent, to advance their happiness; and they may, for this end, as circumstances require, from time to time, alter their constitution of government.

Article I

Section 1. Although it is the duty of all men frequently to assemble together for the public worship of the Author of the universe, and piety and morality, on which the prosperity of communities depends, are thereby promoted; yet no man shall or ought to be compelled to attend any religious worship, to contribute to the erection or support of any place of worship, or to the maintenance of any ministry, against his own free will and consent; and no power shall or ought to be vested in or assumed by any magistrate that shall in any case interfere with, or in any manner control, the rights of conscience, in the free exercise of religious worship, nor a preference be given by law to any religious societies, denominations, or modes of worship.

Sec. 2. No religious test shall be required as a qualification to any office, or public trust, under this State.

Sec. 3. All elections shall be free and equal.

---

[a] This constitution was framed by a convention which met at New Castle in June, 1792, and it was put in operation without having been submitted to the people.

Sec. 4. Trial by jury shall be as heretofore.

Sec. 5. The press shall be free to every citizen who undertakes to examine the official conduct of men acting in a public capacity; and any citizen may print on any subject, being responsible for the abuse of that liberty. In prosecutions for publications investigating the proceedings of officers, or where the matter published is proper for public information, the truth thereof may be given in evidence; and in all indictments for libels, the jury may determine the facts and the law, as in other cases.

Sec. 6. The people shall be secure in their persons, houses, papers, and possessions from the unreasonable searches and seizures; and no warrant to search any place, or to seize any person or things, shall issue without describing them as particularly as may be, nor then, unless there be probable cause supported by oath or affirmation.

Sec. 7. In all criminal prosecutions the accused hath a right to be heard by himself and his counsel, to be plainly and fully informed of the nature and cause of the accusation against him, to meet the witnesses in their examination face to face, to have compulsory process in due time, on application by himself, his friends, or counsel, for obtaining witnesses in his favor, and a speedy and public trial by an impartial jury; he shall not be compelled to give evidence against himself, nor shall be deprived of life, liberty, or property, unless by the judgment of his peers or the law of the land.

Sec. 8. No person shall for any indictable offence be proceeded against criminally by information, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger, and no person shall be, for the same offence, twice put in jeopardy of life or limb; nor shall any man's property be taken or applied to public use without the consent of his representatives, and without compensation being made.

Sec. 9. All courts shall be open; and every man, for an injury done him in his reputation, person, movable or immovable possessions, shall have remedy by the due course of law, and justice administered according to the very right of the cause and the law of the land, without sale, denial, or unreasonable delay or expense; and every action shall be tried in the county in which it shall be commenced, unless when the judges of the court in which the cause is to be tried shall determine that an impartial trial therefore cannot be had in that county. Suits may be brought against the State, according to such regulations as shall be made law.

Sec. 10. No power of suspending laws shall be exercised, but by authority of the legislature.

Sec. 11. Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted; and in the construction of jails a proper regard shall be had to the health of prisoners.

Sec. 12. All prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is positive, or the presumption great; and when persons are confined on accusation for such offences, their friends and counsel may at proper seasons have access to them.

Sec. 13. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

Sec. 14. No commission of oyer and terminer or jail-delivery shall be issued.

Sec. 15. No attainder shall work corruption of blood, nor, except during the life of the offender, forfeiture of estate. The estates of those who destroy their own lives shall descend or vest as in case of natural death; and if any person be killed by accident, no forfeiture shall be thereby incurred.

Sec. 16. Although disobedience to laws by a part of the people, upon suggestions of impolicy or injustice in them, tends by immediate effect and the influence of example, not only to endanger the public welfare and safety, but also, in governments of a republican form, contravenes the social principles of such governments founded on common consent for common good, yet the citizens have a right, in an orderly manner, to meet together, and to apply to persons intrusted with the powers of government for redress of grievances or other proper purposes, by petition, remonstrance, or address.

Sec. 17. No standing army shall be kept up without the consent of the legislature; and the military shall, in all cases and at all times, be in strict subordination to the civil power.

Sec. 18. No soldier shall in time of peace be quartered in any house without the consent of the owner; nor in time of war, but by a civil magistrate, in a manner to be prescribed by law.

Sec. 19. No hereditary distinction shall be granted, nor any office created or exercised, the appointment to which shall be for a longer term than during good behavior; and no person holding any office under this State shall accept of any office or title of any kind whatever, from any king, prince, or foreign state.

We declare that everything in this article is reserved out of the general powers of government hereinafter mentioned.

Article II

Section 1. The legislative power of this State shall be vested in a general assembly, which shall consist of a senate and house of representatives.

Sec. 2. The representatives shall be chosen annually by the citizens residing in the several counties, respectively, on the first Tuesday of October.

No person shall be a representative who shall not have attained to the age of twenty-four years, and have a freehold in the county in which he shall be chosen, have been a citizen and inhabitant of the State three years next preceding the first meeting of the legislature after his election, and the last year of that term an inhabitant of the county in which he shall be chosen, unless he shall have been absent on the public business of the United States, or of this State.

There shall be seven representatives chosen in each county, until a greater number of representatives shall by the general assembly be judged necessary; and then, two-thirds of each branch of the legislature concurring, they may by law make provision for increasing their number.

Sec. 3. The senators shall be chosen for three years by the citizens residing in the several counties, respectively, having right to vote for representatives, at the same time when they shall vote for representatives, in the same manner, and at the same places.

No person shall be a senator who shall not have attained to the age of twenty-seven years, and have in the county in which he shall be chosen a freehold estate in two hundred acres of land, or an estate in real and personal property, or in either, of the value of one thousand pounds at least, and have been a citizen and inhabitant of the State three years next preceding the first meeting of the legislature after his election, and the last year of that term an inhabitant of the county in which he shall be chosen, unless he shall have been absent on the public business of the United States or of this State.

There shall be three senators chosen in each county. When a greater number of senators shall by the general assembly be judged necessary, two-thirds of each branch concurring, they may, by law, make provision for increasing their number; but the number of senators shall never be greater than one-half, nor less than one-third, of the number of representatives.

Immediately after the senators shall be assembled in consequence of the first election, the senators residing in each county shall be divided by lot into three classes. The seats of the senators of the first class shall be vacated at the expiration of the first year; of the second class at the expiration of the second year; and of the third class at the expiration of the third year, so that one-third may be chosen every year.

SEC. 4. The general assembly shall meet on the first Tuesday of January, in every year, unless sooner convened by the governor.

SEC. 5. Each house shall choose its speaker and other officers; and also each house, whose speaker shall exercise the office of governor, may choose a speaker *pro tempore*.

SEC. 6. Each house shall judge of the elections, returns, and qualifications of its own members; and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and shall be authorized to compel the attendance of absent members, in such manner, and under such penalties, as shall be deemed expedient.

SEC. 7. Each house may determine the rules of its proceedings, punish any of its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, and shall have all other powers necessary for a branch of the legislature of a free and independent State.

SEC. 8. Each house shall keep a journal of its proceedings, and publish them immediately after every session, except such parts as may require secrecy, and the yeas and nays of the members on any question shall, at the desire of any member, be entered on the journal.

SEC. 9. The doors of each house, and of committees of the whole, shall be open, unless when the business is such as ought to be kept secret.

SEC. 10. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 11. The senators and representatives shall receive a compensation for their services to be ascertained by law, and paid out of the treasury of the State; but no law varying the compensation shall take effect till an election of representatives shall have intervened. They shall in all cases, except treason, felony, or breach of the peace,

be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

Sec. 12. No senator nor representative shall, during the time for which he shall have been elected, be appointed to any civil office under this State which shall have been created, or the emoluments of which shall have been increased, during such time. No person concerned in any army or navy contract, no member of Congress, nor any person holding any office under this State or the United States, except the attorney-general, officers usually appointed by the courts of justice respectively, attorneys at law, and officers in the militia, holding no disqualifying office, shall, during his continuance in Congress or in office, be a senator or representative.

Sec. 13. When vacancies happen in either house writs of election shall be issued by the speakers respectively, or, in cases of necessity, in such other manner as shall be provided for by law; and the persons thereupon chosen shall hold their seats as long as those in whose stead they are elected might have done if such vacancies had not happened.

Sec. 14. All bills for raising revenue shall originate in the house of representatives; but the senate may propose alterations, as on other bills; and no bill, from the operation of which, when passed into a law, revenue may incidentally arise, shall be accounted a bill for raising revenue; nor shall any matter or clause whatever, not immediately relating to and necessary for raising revenue, be in any manner blended with or annexed to a bill for raising revenue.

Sec. 15. No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published annually.

Article III

Section 1. The supreme executive powers of this State shall be vested in a governor.

Sec. 2. The governor shall be chosen on the first Tuesday of October by the citizens of the State having right to vote for representatives in the counties where they respectively reside, at the places where they shall vote for representatives.

The returns of every election for governor shall be sealed up, and immediately delivered by the returning officers of the several counties to the speaker of the senate, [or in case of his death to the speaker of the house of representatives,] who shall keep the same until a speaker of the senate shall be appointed, to whom they shall be immediately delivered after his appointment, who shall open and publish the same in the presence of the members of both houses of the legislature. Duplicates of the said returns shall also be immediately lodged with the prothonotary of each county. The person having the highest number of votes shall be governor; but if two or more shall be equal in the highest number of votes, the members of the two houses shall, by joint ballot, choose one of them to be governor; and if, upon such ballot, two or more of them shall still be equal and highest in votes, the speaker of the senate shall have an additional casting vote.

Contested elections of a governor shall be determined by a joint

committee, consisting of one-third of all the members of each branch of the legislature, to be selected by ballot of the houses respectively; every person of the committee shall take an oath or affirmation that in determining the said election he will faithfully discharge the trust reposed in him; and the committee shall always sit with open doors.

SEC. 3. The governor shall hold his office during three years from the third Tuesday of January next ensuing his election, and shall not be capable of holding it longer than three in any term of six years.

SEC. 4. He shall be at least thirty years of age, and have been a citizen and inhabitant of the United States twelve years next before the first meeting of the legislature after his election, and the last six of that term an inhabitant of this State, unless he shall have been absent on the public business of the United States or of this State.

SEC. 5. No member of Congress, nor person holding any office under the United States, or this State, shall exercise the office of governor.

SEC. 6. The governor shall, at stated times, receive for his services an adequate salary, to be fixed by law, which shall be neither increased nor diminished during the period for which he shall have been elected.

SEC. 7. He shall be commander-in-chief of the army and navy of this State, and of the militia, except when they shall be called into the service of the United States.

SEC. 8. He shall appoint all officers whose offices are established by this constitution, or shall be established by law, and whose appointments are not herein otherwise provided for; but no person shall be appointed to an office within a county who shall not have a right to vote for representatives, and have been an inhabitant therein one year next before his appointment, nor hold the office longer than he continues to reside in the county. No member of Congress, nor any person holding or exercising any office under the United States, shall at the same time hold or exercise the office of judge, treasurer, attorney-general, secretary, clerk of the supreme court, prothonotary, register for the probate of wills and granting letters of administration, recorder, sheriff, or any office under this State, with a salary by law annexed to it, or any other office which the legislature shall declare incompatible with offices or appointments under the United States. No person shall hold more than one of the following offices at the same time, to wit, treasurer, attorney-general, clerk of the supreme court, prothonotary, register, or sheriff. All commissions shall be in the name of the State, shall be sealed with the great seal, and be signed and tested by the governor.

SEC. 9. He shall have power to remit fines and forfeitures, and to grant reprieves and pardons, except in cases of impeachment.

SEC. 10. He may require information in writing from the officers in the executive department, upon any subject relating to the duties of their respective offices.

SEC. 11. He shall from time to time give to the general assembly information of affairs concerning the State, and recommend to their consideration such measures as he shall judge expedient.

SEC. 12. He may, on extraordinary occasions, convene the general assembly; and in case of disagreement between the two houses with respect to the time of adjournment, adjourn them to such time as he shall think proper, not exceeding three months.

SEC. 13. He shall take care that the laws be faithfully executed.

SEC. 14. On the death or resignation of the governor, or his removal

from office on impeachment, or for inability, the speaker of the senate at that time shall exercise the office of governor, until a new governor shall be duly qualified, and on the death or resignation of the speaker of the senate, the speaker of the house of representatives at that time shall exercise the office, until it be regularly vested in a new governor. If the trial of a contested election shall continue longer than until the third Tuesday of January next ensuing the election of a governor, the governor of the last year, or the speaker of the senate, or of the house of representatives, who may then be in the exercise of the executive authority, shall continue therein until a determination of such contested election. The governor shall not be removed from his office for inability, but with the concurrence of two-thirds of all the members of each branch of the legislature.

Sec. 15. A secretary shall be appointed and commissioned during the governor's continuance in office, if he shall so long behave himself well. He shall keep a fair register of all the official acts and proceedings of the governor, and shall, when required by either branch of the legislature, lay the same, and all papers, minutes, and vouchers relative thereto, before them, and shall perform such other duties as shall be enjoined him by law. He shall have a compensation for his services to be fixed by law.

Article IV

Section 1. All elections of governor, senators, and representatives shall be by ballot. And in such elections every white free man of the age of twenty-one years, having resided in the State two years next before the election, and within that time paid a State or county tax, which shall have been assessed at least six months before the election, shall enjoy the right of an elector; and the sons of persons so qualified shall, between the ages of twenty-one and twenty-two years, be entitled to vote, although they shall not have paid taxes.

Sec. 2. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from them.

Article V

Section 1. The house of representatives shall have the sole power of impeaching; but two-thirds of all the members must concur in an impeachment. All impeachments shall be tried by the senate; and, when sitting for that purpose, the senators shall be upon oath or affirmation to do justice according to the evidence. No person shall be convicted without the concurrence of two-thirds of all the senators.

Sec. 2. The governor, and all other civil officers under this State, shall be liable to impeachment for treason, bribery, or any high crime or misdemeanor in office. Judgment in such cases shall not extend further than to removal from office, and disqualification to hold any office of honor, trust, or profit under this State; but the party convicted shall nevertheless be subject to indictment, trial, judgment, and punishment according to law.

Sec. 3. Treason against this State shall consist only in levying war against it, or in adhering to the enemies of the government, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

Article VI

Section 1. The judicial power of this State shall be vested in a court of chancery, a supreme court, and courts of oyer and terminer and general gaol-delivery, in a court of common pleas, and in an orphans' court, registers' court, and a court of quarter-sessions of the peace for each county, in justices of the peace, and in such other courts as the legislature (two-thirds of all the members of each branch concurring) may, from time to time, establish.

Sec. 2. The chancellor and the judges of the supreme court, and of the court of common pleas, shall hold their offices during good behavior; but, for any reasonable cause which shall not be a sufficient ground for an impeachment, the governor may, in his discretion, remove any of them, on the address of two-thirds of all the members of each branch of the legislature. They shall, at stated times, receive for their services adequate salaries, to be fixed by law, which shall not be diminished during their continuance in office, and shall be payable quarterly to their respective orders upon the treasurer, out of any moneys in the treasury; but they shall hold no other office of profit, nor receive any fees or perquisites, except such fees as shall be fixed by law for business to be done out of court.

Sec. 3. The judges of the supreme court shall be not fewer than three, nor more than four, one of whom shall be chief-justice. There shall be a judge residing in each county. The jurisdiction of this court shall extend over the State. The judges shall, by virtue of their offices, be justices of oyer and terminer and general gaol-delivery in the several counties. Any two of the judges may act as if all were present.

Sec. 4. The judges of the court of common pleas shall be not fewer than three, nor more than four, one of whom shall be chief-justice. There shall be a judge residing in each county. The jurisdiction of this court shall extend over the State. Any two of the judges may act as if all were present.

Sec. 5. The chancellor, or any judge of the supreme court, or of the court of common pleas, shall issue the writ of *habeas corpus* in vacation time, and out of term, when duly applied for, which shall be immediately obeyed.

Sec. 6. Any judge of the supreme court, or of the court of common pleas, may, unless the legislature shall otherwise provide by law, out of court, take the acknowledgment of deeds; and the same being thereon certified, under his hand, such deed shall be recorded, and have the same effect, as if acknowledged in open court.

Sec. 7. In civil causes, when pending, the supreme court and court of common pleas shall have the power, before judgment, of directing, upon such terms as they shall deem reasonable, amendments in pleadings and legal proceedings, so that by error in any of them the determination of causes, according to their real merits, shall not be hindered; and also of directing the examination of witnesses that are aged, very infirm, or going out of the State, upon interrogatories *de bene esse*, to be read in evidence in case of the death or departure of the witnesses before the trial, or inability by reason of age, sickness, bodily infirmity, or imprisonment then to attend; and also the power of obtaining evidence from places not within the State.

SEC. 8. Suits may originate in the supreme court or court of common pleas.

SEC. 9. One judge of the supreme court, or of the court of common pleas, may, if the other judges come not, open and adjourn the court, and may also make the necessary rules preparatory, respectively, to the trial or argument of causes.

SEC. 10. At any time pending an action for debt or damages, the defendant may bring into court a sum of money for discharging the same, and the costs then accrued, and the plaintiff not accepting thereof, it shall be delivered for his use to the clerk or prothonotary of the court; and if, upon the final decision of the cause, the plaintiff shall not recover a greater sum than that so paid into court for him, he shall not recover any costs accruing after such payment, except where the plaintiff is an executor or administrator.

SEC. 11. By the death of any party, no suit in chancery or at law, where the cause of action survives, shall abate; but, until the legislature shall otherwise provide, suggestion of such death being entered of record, the executor or administrator of a deceased petitioner, or plaintiff, may prosecute the said suit; and if a respondent or defendant dies, the executor or administrator, being duly served with a *scire facias*, thirty days before the return thereof, shall be considered as a party to the suit, in the same manner as if he had voluntarily made himself a party; and in any of those cases the court shall pass a decree, or render judgment for or against executors or administrators as to right appertains. But where an executor or administrator of a deceased respondent or defendant becomes a party, the court, upon motion, shall grant such a continuance of the cause as to the judges shall appear proper.

SEC. 12. Whenever a person, not being an executor or administrator, appeals from a decree of the chancellor, or applies for a writ of error, such appeal or writ shall be no stay of proceeding in the chancery, or the court to which the writ issues, unless the appellant or plaintiff in error shall give sufficient security, to be approved respectively by the chancellor, or by a judge of the court from which the writ issues, that the appellant or plaintiff in error shall prosecute respectively his appeal or writ to effect, and pay the condemnation-money and all costs, or otherwise abide the decree in appeal or the judgment in error, if he fail to make his plea good.

SEC. 13. No writ of error shall be brought upon any judgment heretofore confessed, entered, or rendered, but within five years from this time; nor upon any judgment hereafter to be confessed, entered, or rendered, but within five years after the confessing, entering, or rendering thereof, unless the person entitled to such writ be an infant, *feme-covert*, *non compos mentis*, or a prisoner, and then within five years exclusive of the time of such disability.

SEC. 14. The equity jurisdiction heretofore exercised by the judges of the court of common pleas shall be separated from the common-law jurisdiction, and vested in a chancellor, who shall hold courts of chancery in the several counties of this State. In cases of equity jurisdiction, where the chancellor is interested, the cognizance thereof shall belong to the court of common pleas, with an appeal to the high court of errors and appeals.

SEC. 15. The judges of the court of common pleas, or any two of

them, shall compose the orphans' court of each county, and may exercise the equity jurisdiction heretofore exercised by the orphans' courts, except as to the adjusting and settling executors, administrators, and guardians' accounts; in which cases they shall have an appellate jurisdiction from the sentence or decree of the register. This court may issue process throughout the State to compel the attendance of witnesses. Appeals may be made from the orphans' court, in cases where that court has original jurisdiction, to the supreme court, whose decision shall be final.

Sec. 16. An executor, administrator, or guardian shall file every account with the register for the county, who shall, as soon as conveniently may be, carefully examine the particulars, with the proofs thereof, in the presence of such executor, administrator, or guardian, and shall adjust and settle the same, according to the very right of the matter, and the law of the land; which account, so settled, shall remain in his office for inspection; and the executor, administrator, or guardian shall, within three months after such settlement, give due notice, in writing, to all persons entitled to shares of the estate, or to their guardians respectively if residing within the State, that the account is lodged in the said office for inspection; and the judges of the orphans' court shall hear the exceptions of any persons concerned, if any be made, and thereupon allow no demand whatever against the estate of the deceased, unless, upon consideration of all circumstances, they shall be fully convinced that the same is therewith justly chargeable.

Sec. 17. The registers of the several counties shall respectively hold the register's court in each county. Upon the litigation of a cause, the depositions of the witnesses examined shall be taken at large in writing, and make part of the proceedings in the cause. This court may issue process throughout the State to compel the attendance of witnesses. Appeals may be made from a register's court to the supreme court, whose decision shall be final. In cases where a register is interested in questions concerning the probate of wills, the granting letters of administration, or executors, administrators, or guardians' accounts, the cognizance thereof shall belong to the orphans' court, with an appeal to the supreme court, whose decision shall be final.

Sec. 18. The prothonotaries of the court of common pleas may issue process as heretofore, take recognizances of bail, and sign confessions of judgment; and the clerks of the supreme court shall have the like powers. No judgment in the supreme court or court of common pleas held for one county shall bind lands or tenements in another, until a *testatum fieri facias*, being issued, shall be entered of record in the office of the prothonotary of the county wherein the lands or tenements are situated.

Sec. 19. The judges of the court of common pleas shall, by virtue of their offices, compose the courts of general quarter-sessions of the peace and gaol-delivery within the several counties. Any two of the said judges shall be a quorum.

Sec. 20. The governor shall appoint a competent number of persons to the office of justice of the peace, not exceeding twelve in each county, until two-thirds of both houses of the legislature shall by law direct an addition to the number, who shall be commissioned for

seven years, if so long they shall behave themselves well; but may be removed by the governor within that time on conviction of misbehavior in office, or on the address of both houses of the legislature.

SEC. 21. The style in all process and public acts shall be, "*The State of Delaware.*" Prosecutions shall be carried on in the name of the State, and shall conclude, "*against the peace and dignity of the State.*"

ARTICLE VII

SECTION 1. There shall be a court styled "*The high court of errors and appeals,*" which shall consist of the chancellor and of the judges of the supreme court and court of common pleas. Any four of the judges of this court may proceed on business, but any smaller number may open and adjourn the court. If any of them has rendered judgment or passed a decree in any cause before removal, he shall not sit judicially upon the hearing of the same in this court, but may assign the reasons upon which such judgment was rendered, or such decree passed. The chancellor shall preside, except when he cannot sit judicially; and in such cases, or in his absence, the chief-justice of the supreme court; but if he is so disqualified or absent, then the chief-justice of the court of common pleas shall preside; and if he is so disqualified or absent, then the next eldest judge, according to priority in date of commissions, if present, and not disqualified as aforesaid, shall preside. This court shall have power to issue writs of error to the supreme court, and to the court of common pleas, and to receive and determine appeals from interlocutory or final orders or decrees of the chancellor. Errors shall be assigned and causes of appeal exhibited in writing speedily, and citations duly served on adverse parties.

SEC. 2. Upon the reversal of a judgment of the supreme court or of the court of common pleas, or a decree of the chancellor, this court shall respectively render such judgment or pass such decree as the supreme court, or the court of common pleas, or the chancellor ought to have rendered or passed, except where the reversal is in favor of the plaintiff or petitioner in the original suit, and the damages to be assessed, or the matters to be decreed, are uncertain; in any of which cases the cause shall be remanded, in order to a final decision.

SEC. 3. The judges of this court may issue all process proper for bringing records fully before them, and for carrying their determinations into execution.

ARTICLE VIII

SECTION 1. The members of the senate and house of representatives, the chancellor, the judges of the supreme court and the court of common pleas, and the attorney-general, shall, by virtue of their offices, be conservators of the peace throughout the State; and the treasurer, secretary, clerks of the supreme court, prothonotaries, registers, recorders, sheriffs, and coroners shall, by virtue of their offices, be conservators thereof within the counties respectively in which they reside.

SEC. 2. The representative, and when there shall be more than one the representatives, of the people of this State in Congress, shall be voted for at the same places where representatives in the State legislature are voted for, and in the same manner.

SEC. 3. The State treasurer shall be appointed annually by the house of representatives, with the concurrence of the Senate. No person who hath served in the office of State treasurer shall be eligible to a seat in either house of the legislature until he shall have made a final settlement of his accounts as treasurer, and discharged the balance, if any, thereon due.

SEC. 4. Two persons for the office of sheriff, and two for the office of coroner, shall be chosen by the citizens residing in each county, and having right to vote for representatives, at the time and places of election of representatives, one of whom for each office respectively shall be appointed by the governor. They shall hold their offices for three years, if so long they shall behave themselves well, and until successors be duly qualified; but no person shall be twice appointed sheriff, upon election by the citizens, in any term of six years. The governor shall fill vacancies in these offices by new appointments, to continue unto the next general election, and until successors shall be chosen and duly qualified. The legislature, two-thirds of each branch concurring, may, when it shall be judged expedient, vest the appointment of sheriffs and coroners in the governor; but no person shall be twice appointed sheriff in any term of six years.

SEC. 5. The attorney-general, clerks of the supreme court, prothonotaries, registers, clerks of the orphans' courts and of the peace, shall respectively be commissioned for five years, if so long they shall behave themselves well; but may be removed by the governor within that time, on conviction of misbehavior in office, or on the address of both houses of the legislature. Prothonotaries, clerks of the supreme court, of the orphans' courts, registers, recorders, and sheriffs, shall keep their offices in the town or place in each county in which the supreme court and the court of common pleas are usually held.

SEC. 6. Attorneys at law, all inferior officers in the treasury department, election officers, officers relating to taxes, to the poor, and to highways, constables and hundred officers, shall be appointed in such manner as is or may be directed by law.

SEC. 7. All salaries and fees annexed to offices shall be moderate; and no officer shall receive any fees whatever, without giving to the person who pays a receipt for them, if required, therein specifying every particular, and the charge for it.

SEC. 8. No costs shall be paid by a person accused, on a bill being returned ignoramus; nor on acquittal by a jury, unless a majority of the judges present at the trial certify that there was probable cause for the prosecution.

SEC. 9. The rights, privileges, immunities, and estates of religious societies and corporate bodies shall remain as if the constitution of this State had not been altered. No clergyman or preacher of the gospel, of any denomination, shall be capable of holding any civil office in this State, or of being a member of either branch of the legislature, while he continues in the exercise of the pastoral or clerical functions.

SEC. 10. All the laws of this State, existing at the time of making this constitution, and not inconsistent with it, shall remain in force, unless they shall be altered by future laws; and all actions and prosecutions now pending shall proceed as if this constitution had not been made.

Sec. 11. This constitution shall be prefixed to every edition of the laws made by direction of the legislature.

Sec. 12. The legislature shall, as soon as conveniently may be, provide by law for ascertaining what statutes and parts of statutes shall continue to be in force within this State; for reducing them, and all acts of the general assembly, into such order, and publishing them in such manner, that thereby the knowledge of them may be generally diffused; for choosing inspectors and judges of elections, and regulating the same, in such manner as shall most effectually guard the rights of the citizens entitled to vote; for better securing personal liberty, and easily and speedily redressing all wrongful restraints thereof; for more certainly obtaining returns of impartial juries; for dividing lands and tenements in sales by sheriffs, where they will bear a division, into as many parcels as may be, without spoiling the whole, and for advertising and making the sales, in such manner and at such times and places as may render them most beneficial to all persons concerned; and for establishing schools, and promoting arts and sciences.

Article IX

Members of the general assembly, and all officers, executive and judicial, shall be bound, by oath or affirmation, to support the constitution of this State, and to perform the duties of their respective offices with fidelity.

Article X

The general assembly, whenever two-thirds of each house shall deem it necessary, may, with the approbation of the governor, propose amendments to this constitution, and at least three, and not more than six months, before the next general election of representatives, duly publish them in print, for the consideration of the people; and, if three-fourths of each branch of the legislature shall, after such an election, and before another, ratify the said amendments, they shall be valid to all intents and purposes, as parts of this constitution. No convention shall be called but by the authority of the people; and an unexceptionable mode of making their sense known, will be for them, at a general election of representatives, to vote also, by ballot, *for* or *against* a convention, as they shall severally choose to do; and if, thereupon, it shall appear that a majority of all the citizens in the State, having right to vote for representatives, have voted for a convention, the general assembly shall, accordingly, at their next sessions, call a convention, to consist of at least as many members as there are in both houses of the legislature, to be chosen in the same manner, at the same places, and at the same time that representatives are by the citizens entitled to vote for representatives, on due notice given for one month, and to meet within three months after they shall be elected.

Schedule

That no inconveniences may arise from the alterations of the constitution of this State, and in order to carry the same into complete operation, it is hereby declared and ordained—

I. That the president, or, in case of his death, inability, or absence from the State, the speaker of the legislative council, at that time, and in case of his death, inability, or absence from the State, the speaker of the house of assembly, at that time, shall respectively, with the privy council, exercise the executive authority of this State, until the third Tuesday in January next. If the death, inability, or absence of the president shall happen after the first Tuesday of next October, and before the first Tuesday in next January, then the executive authority shall devolve upon the person who was speaker of the council at the next preceding session of the general assembly; and in case of his death, inability, or absence, upon the person who was speaker of the house of assembly at the said next preceding session.

II. That all persons holding offices to which, under this constitution, appointments are to be made by the governor, shall continue in the exercise of the duties of their respective offices, until the first Tuesday of October, 1793, unless their commissions shall sooner expire by their own limitations, or the said offices shall become vacant by death or resignation, and no longer, unless reappointed and commissioned by the governor.

III. That justice shall be administered in the several counties of this State, until the period last mentioned, by the same justices, in the same courts, and in the same manner as heretofore.

IV. That the sheriffs elected at October next shall hold their respective commissions two years, and no longer, from that time, or until new sheriffs are elected and appointed; and such persons shall not be again eligible until the expiration of three years after their commissions cease.

V. That the elections of governor, senators, and representatives shall be conducted by the same persons and in the same manner as is prescribed by the election laws of this State concerning the election of members of the council and of the house of assembly; and the returns thereof shall be made respectively to the person exercising the executive authority, to the senate, and to the house of representatives.

VI. The first meeting of the legislature under this constitution shall be at the town of Dover.

Done in convention the twelfth day of June, in the year of our Lord one thousand seven hundred and ninety-two, and of the Independence of the United States of America the sixteenth. In testimony whereof we have hereunto subscribed our names.

THOMAS MONTGOMERY, *President.*

Attest: JAMES BOOTH, *Secretary.*

AMENDMENT TO THE CONSTITUTION OF 1792.

The chancellor shall compose the orphans' court of each county, and exercise the equity jurisdiction heretofore exercised by the orphans' court, except as to the adjusting and settling executors, administrators, and guardians' accounts, in which case he shall have an appellate jurisdiction from the sentence and decree of the register. This court may issue process throughout the State to compel the attendance of witnesses. Appeals may be made from the orphans' court, in cases where that court has original jurisdiction, to the supreme court, whose decision shall be final.

CONSTITUTION OF DELAWARE—1831 * [a]

We, the people, hereby ordain and establish this constitution of government for the State of Delaware.

Through divine goodness all men have, by nature, the rights of worshipping and serving their Creator according to the dictates of their consciences; of enjoying and defending life and liberty, of acquiring and protecting reputation and property, and, in general, of attaining objects suitable to their condition, without injury by one to another; and as these rights are essential to their welfare, for the due exercise thereof, power is inherent in them; and therefore all just authority in the institutions of political society is derived from the people, and established with their consent, to advance their happiness. And they may for this end, as circumstances require, from time to time, alter their constitution of government.

Article I

Section 1. Although it is the duty of all men frequently to assemble together for the public worship of the Author of the universe, and piety and morality, on which the prosperity of communities depends, are thereby promoted, yet no man shall, or ought to be compelled to attend any religious worship, to contribute to the erection or support of any place of worship, or to the maintenance of any ministry, against his own free will and consent; and no power shall or ought to be vested in or assumed by any magistrate that shall, in any case, interfere with, or in any manner control, the rights of conscience in the free exercise of religious worship; nor shall a preference be given by law to any religious societies, denomination, or modes of worship.

Sec. 2. No religious test shall be required as a qualification to any office or public trust under this State.

Sec. 3. All elections shall be free and equal.

Sec. 4. Trial by jury shall be as heretofore.

Sec. 5. The press shall be free to every citizen who undertakes to examine the official conduct of men acting in a public capacity, and any citizen may print on any such subject, being responsible for the abuse of that liberty. In prosecutions for publications investing the proceedings of officers, or where the matter published is proper for

---

* Journal of the Convention of the People of the State of Deleware which assembled at Dover in the year of Lord, One thousand eight hundred and thirty one, and the Independence of the United States, the fifty-sixth. Wilmington: Da; R. & J. B. Porter, Printers. pp. 129.

"Journal in Committee of the Whole of the Convention of the People of the State of Deleware, which assembled at Dover, in the year 1831, and of the Independence of the United States the fifty-sixth. Wilmington, Del: R. & J. B. Porter, Printers." pp. 44.

"Debates of the Deleware Convention for Revising the Constitution of the State, or adopting a new one. Held at Dover, November, 1831. [Reported for the Deleware Gazette and American Watchman] by William M. Gouge, Wilmington, Del. Printed and Published by Samuel Harker, No. 4 Market Street." pp. 264. Index.

[a] This constitution, which is that originally adopted in 1792, with important amendments, was framed by a convention which met November 8, 1831, and adjourned December 2, 1831. It was not submitted to the peoples.

public information, the truth thereof may be given in evidence; and in all indictments for libels the jury may determine the facts and the law as in other cases.

Sec. 6. The people shall be secure in their persons, houses, papers, and possessions from unreasonable searches and seizures, and no warrant to search any place, or to seize any person or things, shall issue without describing them as particularly as may be, nor then, unless there be probable cause supported by oath or affirmation.

Sec. 7. In all criminal prosecution the accused hath a right to be heard by himself and his counsel; to be plainly and fully informed of the nature and cause of the accusation against him; to meet the witnesses in their examination face to face; to have compulsory process in due time, on application by himself, his friends, or counsel, for obtaining witnesses in his favor, and a speedy and public trial by an impartial jury. He shall not be compelled to give evidence against himself; nor shall he be deprived of life, liberty, or property, unless by the judgment of his peers or the law of the land.

Sec. 8. No person shall for any indictable offence be proceeded against criminally by information, except in cases arising in the land and naval forces, or in the militia when in actual service in time of war or public danger, and no person shall be for the same offence twice put in jeopardy of life or limb; nor shall any man's property be taken or applied to public use without the consent of his representatives, and without compensation being made.

Sec. 9. All courts shall be open; and every man for an injury done him in his reputation, person, movable or immovable possessions, shall have remedy by the due course of law, and justice administered according to the very right of the cause and the law of the land, without sale, denial, or unreasonable delay or expense; and every action shall be tried in the county in which it shall be commenced, unless when the judges of the court in which the cause is to be tried shall determine that an impartial trial therefor cannot be had in that county. Suits may be brought against the State, according to such regulations as shall be made by law.

Sec. 10. No power of suspending laws shall be exercised, but by authority of the legislature.

Sec. 11. Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishment inflicted; and in the construction of jails a proper regard shall be had to the health of prisoners.

Sec. 12. All prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is positive or the presumption great; and when persons are confined on accusation for such offences, their friends and counsel may at proper seasons have access to them.

Sec. 13. The privilege of the writ of *habeas corpus* shall not be suspended unless when in cases of rebellion or invasion the public safety may require it.

Sec. 14. No commission of oyer and terminer or gaol-delivery shall be issued.

Sec. 15. No attainder shall work corruption of blood, nor, except during the life of the offender, forfeiture of estate. The estates of those who destroy their own lives shall descend or vest as in case of natural death; and if any person be killed by accident, no forfeiture shall be thereby incurred.

Sec. 16. Although disobedience to laws by a part of the people, upon suggestions of impolicy or injustice in them, tends, by immediate effect and the influence of example, not only to endanger the public welfare and safety, but also in governments of a republican form contravenes the social principles of such governments founded on common consent for common good, yet the citizens have a right in an orderly manner to meet together, and to apply to persons intrusted with the powers of government for redress of grievances or other proper purposes, by petition, remonstrance, or address.

Sec. 17. No standing army shall be kept up without the consent of the legislature; and the military shall, in all cases and at all times, be in strict subordination to the civil power.

Sec. 18. No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but by a civil magistrate, in a manner to be prescribed by law.

Sec. 19. No hereditary distinction shall be granted, nor any office created or exercised, the appointments to which shall be for a longer term than during good behavior; and no person holding any office under this State shall accept of any office or title of any kind whatever, from any king, prince, or foreign state.

We declare that everything in this article is reserved out of the general powers of government hereinafter mentioned.

Article II

Section 1. The legislative power of this State shall be vested in a general assembly, which shall consist of a senate and house of representatives.

Sec. 2. The representatives shall be chosen [for two years] by the citizens residing in the several counties.

No person shall be a representative who shall not have attained the age of twenty-four years, and have been a citizen and inhabitant of the State three years next preceding the first meeting of the legislature after his election, and the last year of that term an inhabitant of the county in which he shall be chosen, unless he shall have been absent on the public business of the United States, or of this State.

There shall be seven representatives chosen in each county, until a greater number of representatives shall by the general assembly be judged necessary; and then, two-thirds of each branch of the legislature concurring, they may by law make provision for increasing their number.

Sec. 3. The senators shall be chosen for four years by the citizens residing in the several counties.

No person shall be a senator who shall not have attained to the age of twenty-seven years, and have, in the county in which he shall be chosen, a freehold estate in two hundred acres of land, or an estate in real or personal property, or in either, of the value of one thousand pounds at least, and have been a citizen and inhabitant of the State three years next preceding the first meeting of the legislature after his election, and the last year of that term an inhabitant of the county in which he shall be chosen, unless he shall have been absent on the public business of the United States, or of this State.

There shall be three senators chosen in each county. When a greater number of senators shall by the general assembly be judged

necessary, two-thirds of each branch concurring, they may by law make provision for increasing their number; but the number of senators shall never be greater than one-half nor less than one-third of the number of representatives.

If the office of representative or the office of senator become vacant before the regular expiration of the term thereof, a representative or a senator shall be elected to fill such vacancy, and shall hold the office for the residue of said term.

When there is a vacancy in either house of the general assembly, and the general assembly is not in session, the governor shall have power to issue a writ of election to fill such vacancy; which writ shall be executed as a writ issued by a speaker of either house in case of vacancy.

SEC. 4. The general assembly shall meet on the first Tuesday of January, biennially, unless sooner convened by the governor.

The first meeting of the general assembly, under this amended constitution, shall be on the first Tuesday of January, in the year of our Lord 1833, which shall be the commencement of the biennial sessions.

SEC. 5. Each house shall choose its speaker and other officers; and also each house, whose speaker shall exercise the office of governor, may choose a speaker *pro tempore*.

SEC. 6. Each house shall judge of the elections, returns, and qualifications of its own members; and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and shall be authorized to compel the attendance of absent members in such manner and under such penalties as shall be deemed expedient.

SEC. 7. Each house may determine the rules of its proceedings, punish any of its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, and shall have all other powers necessary for a branch of the legislature of a free and independent State.

SEC. 8. Each house shall keep a journal of its proceedings, and publish them immediately after every session, except such parts as may require secrecy, and the yeas and nays of the members on any question shall, at the desire of any member, be entered on the journal.

SEC. 9. The doors of each house, and of committees of the whole, shall be open, unless when the business is such as ought to be kept secret.

SEC. 10. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 11. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the State; but no law varying the compensation shall take effect until an election of the representatives shall have intervened. They shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

SEC. 12. No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office

under this State, which shall have been created, or the emoluments of which shall have been increased, during such time. No person concerned in any army or navy contracts, nor member of Congress, nor any person holding any office under this State, or the United States, except the attorney-general, officers usually appointed by the courts of justice, respectively, attorneys at law, and officers in the militia, holding no disqualifying office, shall, during his continuance in Congress or in office, be a senator or representative.

Sec. 13. When vacancies happen in either house, writs of election shall be issued by the speakers respectively, or in cases of necessity, in such other manner as shall be provided by law; and the persons thereupon chosen shall hold their seats as long as those in whose stead they are elected might have done if such vacancies had not happened.

Sec. 14. All bills for raising revenue shall originate in the house of representatives; but the senate may propose alterations as on other bills; and no bill, from the operations of which, when passed into a law, revenue may incidentally arise, shall be accounted a bill for raising revenue; nor shall any matter or clause whatever, not immediately relating to and necessary for raising revenue, be in any manner blended with or annexed to a bill for raising revenue.

Sec. 15. No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published *at least once in every two years.*

Sec. 16. The State treasurer shall be appointed biennially by the house of representatives, with the concurrence of the senate. In case of vacancy in the office of State treasurer in the recess of the general assembly, either through omission of the general assembly to appoint, or by the death, removal out of the State, resignation, or inability of the State treasurer, or his failure to give security, the governor shall fill the vacancy by appointment, to continue until the next meeting of the general assembly. The State treasurer shall settle his accounts annually with the general assembly, or a committee thereof, which shall be appointed at every biennial session. No person who hath served in the office of State treasurer shall be eligible to a seat in either house of the general assembly until he shall have made a final settlement of his accounts as treasurer, and discharged the balance, if any, due thereon.

Sec. 17. No act of incorporation, except for the renewal of existing corporations, shall be hereafter enacted without the concurrence of two-thirds of each branch of the legislature, and with a reserved power of revocation by the legislature; and no act of incorporation which may be hereafter enacted shall continue in force for a longer period than twenty years, without the reënactment of the legislature, unless it be an incorporation for public improvement.[a]

Article III

Section 1. The supreme executive powers of the State shall be vested in a governor.

Sec. 2. The governor shall be chosen by the citizens of the State.

---

[a] Amended in 1875.

The returns of every election for governor shall be sealed up, and immediately delivered by the returning officers of the several counties to the speaker of the senate, or, in case of the vacancy of the office of the speaker of the senate, or his absence from the State, to the secretary of state, who shall keep the same until a speaker of the senate shall be appointed, to whom they shall be immediately delivered after his appointment, who shall open and publish the same in the presence of the members of both houses of the legislature. Duplicates of the said returns shall also be immediately lodged with the prothonotary of each county. The person having the highest number of votes shall be governor; but if two or more shall be equal in the highest number of votes, the members of the two houses shall, by joint ballot, choose one of them to be governor; and if, upon such ballot, two or more of them shall still be equal and highest in votes, the speaker of the senate shall have an additional casting vote.

Contested elections of a governor shall be determined by a joint committee, consisting of one-third of all the members of each branch of the legislature, to be selected by ballot of the house respectively; every person of the committee shall take an oath or affirmation that in determining the said election he will faithfully discharge the trust reposed in him; and the committee shall always sit with open doors.

SEC. 3. The governor shall hold his office during four years from the third Tuesday in January next ensuing his election, and shall not be eligible a second time to said office.

SEC. 4. He shall be at least thirty years of age, and have been a citizen and inhabitant of the United States twelve years next before the first meeting of the legislature after his election, and the last six of that term an inhabitant of this State, unless he shall have been absent on the public business of the United States, or of this State.

SEC. 5. No member of Congress, nor person holding any office under the United States, or this State, shall exercise the office of governor.

SEC. 6. The governor shall, at stated times, receive for his services an adequate salary, to be fixed by law, which shall be neither increased nor diminished during the period for which he shall have been elected.

SEC. 7. He shall be commander-in-chief of the army and navy of the State, and of the militia, except when they shall be called into the service of the United States.

SEC. 8. He shall appoint all officers whose offices are established by this constitution, or shall be established by law, and whose appointments are not herein otherwise provided for; but no person shall be appointed to an office within a county, who shall not have a right to vote for representatives, and have been an inhabitant therein one year next before his appointment, nor hold the office longer than he continues to reside in the county. No member of Congress, nor any person holding or exercising any office under the United States, shall at the same time hold or exercise the office of judge, treasurer, attorney-general, secretary, prothonotary, register for the probate of wills and granting letters of administration, recorder, sheriff, or any office under this State, with a salary by law annexed to it, or any other office which the legislature shall declare incompatible with offices or appointments under the United States. No person shall hold more than one of the following offices at the same time, to wit: treasurer,

attorney-general, prothonotary, register, or sheriff. All commissions shall be in the name of the State, shall be sealed with the great seal, and be signed and tested by the governor.

Sec. 9. He shall have power to remit fines and forfeitures, and to grant reprieves and pardons, except in cases of impeachment. He shall set forth in writing, fully, the grounds of all reprieves, pardons, and remissions, to be entered in the register of his official acts, and laid before the general assembly at their next session.

Sec. 10. He may require information in writing from the officers in the executive department, upon any subject relating to the duties of their respective offices.

Sec. 11. He shall, from time to time, give to the general assembly information of affairs concerning the State, and recommend to their consideration such measures as he shall judge expedient.

Sec. 12. He may, on extraordinary occasions, convene the general assembly; and, in case of disagreement between the two houses with respect to the time of adjournment, adjourn them to such time as he shall think proper, not exceeding three months.

Sec. 13. He shall take care that the laws be faithfully executed.

Sec. 14. Upon any vacancy happening in the office of governor by his death, removal, resignation, or inability, the speaker of the senate shall exercise the office until a governor elected by the people shall be duly qualified. If there be no speaker of the senate, or upon a further vacancy happening in the office by his death, removal, resignation, or inability, the speaker of the house of representatives shall exercise the office until a governor elected by the people shall be duly qualified. If the person elected governor shall die, or become disqualified, before the commencement of his term of office, or shall refuse to take the same, the person holding the office shall continue to exercise it until a governor shall be elected and duly qualified. If upon a vacancy happening in the office of governor there be no other person who can exercise said office within the provisions of the constitution, the secretary of state shall exercise the same until the next meeting of the general assembly, who shall immediately proceed to elect, by joint ballot of both houses, a person to exercise the office until a governor, elected by the people, shall be duly qualified. If a vacancy occur in the office of governor, or if the governor-elect die, or become disqualified, before the commencement of his term, or refuse to take the office, an election for governor shall be held at the next general election, unless the vacancy happen within six days next preceding the election, exclusive of the day of the happening of the vacancy and the day of the election; in that case, if an election for governor would not have been held at said election, without the happening of such vacancy, no election for governor shall be held at said election in consequence of such vacancy. If the trial of a contested election shall continue longer than until the third Tuesday of January next ensuing the election of a governor, the governor of the last year, or the speaker of the senate, or of the house of representatives, who may then be in the exercise of the executive authority, shall continue therein until a determination of such contested election. The governor shall not be removed from his office for inability but with the concurrence of two-thirds of all the members of each branch of the legislature.

Sec. 15. A secretary shall be appointed and commissioned during the governor's continuance in office, if he shall so long behave himself

well. He shall keep a fair register of all the official acts and proceedings of the governor, and shall, when required by either branch of the legislature, lay the same, and all papers, minutes, and vouchers relative thereto, before them, and shall perform such other duties as shall be enjoined him by law. He shall have a compensation for his services, to be fixed by law.

Article IV

Section 1. All elections for governor, senators, representatives, sheriffs, and coroners shall be held on the second Tuesday [a] of November, and be by ballot; and in such elections every free white male citizen of the age of twenty-two years or upwards, having resided in the State one year next before the election, and the last month thereof in the county where he offers to vote, and having within two years next before the election paid a county tax, which shall have been assessed at least six months before the election, shall enjoy the right of an elector; and every free white male citizen of the age of twenty-one years, and under the age of twenty-two years, having resided as aforesaid, shall be entitled to vote without payment of any tax: *Provided*, That no person in the military, naval, or marine service of the United States shall be considered as acquiring a residence in this State, by being stationed in any garrison, barrack, or military or naval place or station within this State; and no idiot, or insane person, or pauper, or person convicted of a crime deemed by law felony, shall enjoy the right of an elector; and that the legislature may impose the forfeiture of the right of suffrage as a punishment for crime.

Sec. 2. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from an arrest during their attendance at elections, and in going to and returning from them.

Article V

Section 1. The house of representatives shall have the sole power of impeaching; but two-thirds of all the members must concur in an impeachment. All impeachments shall be tried by the senate; and when sitting for that purpose the senators shall be upon oath or affirmation to do justice according to the evidence. No person shall be convicted without the concurrence of two-thirds of all the senators.

Sec. 2. The governor, and all other civil officers under this State, shall be liable to impeachment for treason, bribery, or any high crime or misdemeanor in office. Judgment in such cases shall not extend further than to removal from office, and disqualification to hold any office of honor, trust, or profit under this State; but the party convicted shall nevertheless be subject to indictment, trial, judgment, and punishment according to law.

Sec. 3. Treason against this State shall consist only in levying war against it, or in adhering to the enemies of the Government, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

---

[a] Amended in 1855.

ARTICLE VI

SECTION 1. The judicial power of this State shall be vested in a court of errors and appeals, a superior court, a court of chancery, an orphans' court, a court of over and terminer, a court of general sessions of the peace and jail-delivery, a register's court, justices of the peace, and such other courts as the general assembly, with the concurrence of two-thirds of all the members of both houses, shall from time to time establish.

SEC. 2. To compose the said courts there shall be five judges in the State. One of them shall be chancellor of the State; he shall also be president of the orphans' court; he may be appointed in any part of the State. The other four judges shall compose the superior court, the court of over and terminer, and the court of general sessions of the peace and jail-delivery, as hereinafter prescribed. One of them shall be chief-justice of the State, and may be appointed in any part of it. The other three judges shall be associate judges, and one of them shall reside in each county.

SEC. 3. The superior court shall consist of the chief-justice and two associate judges. The chief-justice shall preside in every county, and in his absence the senior associate judge sitting in the county shall preside. No associate judge shall sit in the county in which he resides. Two of the said judges shall constitute a quorum. One may open and adjourn the court, and make all rules necessary for the expediting of business.

This court shall have jurisdiction of all causes of a civil nature, real, personal, and mixed, at common law, and all other the jurisdiction and powers vested by the laws of this State in the supreme court or court of common pleas.

SEC. 4. The court of general sessions of the peace and jail-delivery shall be composed in each county of the same judges and in the same manner as the superior court. Two shall constitute a quorum. One may open and adjourn the court. This court shall have all the jurisdiction and powers vested by the laws of this State in the court of general quarter sessions of the peace and jail-delivery.

SEC. 5. The chancellor shall hold the court of chancery. This court shall have all the powers vested by the laws of this State in the court of chancery.

SEC. 6. The court of over and terminer shall consist of all the judges except the chancellor. Three of the said judges shall constitute a quorum. One may open and adjourn the court. This court shall exercise the jurisdiction now vested in the courts of over and terminer and general jail-delivery by the laws of this State. In the absence of the chief-justice, the senior associate present shall preside.

SEC. 7. The court of errors and appeals shall have jurisdiction to issue writs of error to the superior court, and to receive appeals from the court of chancery, and to determine finally all matters in error in the judgments and proceedings of said superior court, and all matters of appeal in the interlocutory or final decrees and proceedings in chancery. The court of errors and appeals upon a writ of error to the superior court shall consist of three judges at least; that is to say, the chancellor, who shall preside, the associate judge who could not on account of his residence sit in the cause below, and one of the judges who did sit in the said cause. The judges of the superior

court to whom it appertains to hold the superior court in each county shall sit alternately in the court of errors and appeals in cases in error brought from the superior court held in such county, according to the following rotation, that is to say: if the judgment below be rendered in the court in New Castle County at the first term of the said court there, the chief-justice shall sit; if at the second term of said court there, the associate judge for Kent County shall sit; and if at the third term of said court there, the associate judge for Sussex County shall sit. If the judgment below be rendered in the court in Kent County at the first term of said court there, the associate judge for Sussex County shall sit; if at the second term of the said court there, the associate judge for New Castle County shall sit; and if at the third term of the court there, the chief-justice shall sit. If the judgment below be rendered in the court in Sussex County at the first term of said court there, the associate judge for New Castle County shall sit; if at the second term of said court there, the chief-justice shall sit, and if at the third term of said court there, the associate judge for Kent County shall sit; and so from term to term, in every succeeding rotation, the judges beginning and following each other in the same order. But if in any case, in the court of errors and appeals, the judge who sat in the cause below, and ought according to this provision to sit in the court of errors and appeals, be absent, unable, or disqualified, then either of the other judges who sat in the cause below may sit; and the court shall have power to prevent any inconvenience or delay from observing the rotation above described, by making an order or regulation for either of the judges who sat in the cause below to sit in such cause in the court of errors and appeals. If a judge did not sit in the cause below, he shall sit in the said cause in the court of errors and appeals, unless there be a legal exception to him; but the court, if there be three judges present, may proceed in his absence.

Whenever the superior court consider that a question of law ought to be decided before all the judges, they shall have power, upon the application of either party, to direct it to be heard in the court of errors and appeals; and in that case the chancellor and four judges shall compose the court of errors and appeals, the chancellor presiding, and any four of them being a quorum; and, in the absence of the chancellor, the chief-justice shall preside. The superior court in exercising this power may direct a cause to be proceeded in to verdict and judgment in that court, or to be otherwise proceeded in, as shall be best for expediting justice.

Upon appeal from the court of chancery, the court of errors and appeals shall consist of the chief-justice and three associate judges; any three of them shall be a quorum.

Sec. 8. In matters of chancery jurisdiction in which the chancellor is interested, the chief-justice sitting in the superior court without the associate judges, shall have jurisdiction, with an appeal to the court of errors and appeals, which shall consist in this case of the three associate judges, the senior associate judge presiding.

Sec. 9. The governor shall have power to commission a judge *ad litem*, to decide any cause in which there is a legal exception to the chancellor, or any judge, so that such appointment is necessary to constitute a quorum in either court. The commission in such case shall confine the office to the cause, and it shall expire on the deter-

mination of the cause. The judge so appointed shall receive a reasonable compensation, to be fixed by the general assembly. A member of Congress, or any person holding or exercising an office under the United States, shall not be disqualified from being appointed a judge *ad litem*.

SEC. 10. The orphans' court in each county shall be held by the chancellor and the associate judge residing in the county, the chancellor being president. Either of them, in the absence of the other, may hold the court. When they concur in opinion, there shall be no appeal from their decision except in matter of real estate. When their opinions are opposed, or when a decision is made by one of them, and in all matters involving a right to real estate, or the appraised value or other value thereof, there shall be an appeal to the superior court for the county, which shall have final jurisdiction in every such case. This court shall have all the jurisdiction and powers vested by the laws of this State in the orphans' court.

SEC. 11. The jurisdiction of each of the aforesaid courts shall be co-extensive with the State. Process may be issued out of each court, in either county, into every county.

SEC. 12. The general assembly, notwithstanding anything contained in this article, shall have power to repeal or alter any act of the general assembly, giving jurisdiction to the courts of oyer and terminer and general gaol-delivery, or to the supreme court, or the court of common pleas, or the court of general quarter sessions of the peace and general gaol-delivery, or the orphans' court, or to the court of chancery, in any matter, or giving any power to either of said courts. Until the general assembly shall otherwise direct, there shall be an appeal to the court of errors and appeals in all cases in which there is an appeal, according to any act of the general assembly, to the high court of errors and appeals.

SEC. 13. Until the general assembly shall otherwise provide, the chancellor shall exercise all the powers which any law of the State vests in the chancellor besides the general powers of the court of chancery; and the chief-justice and associate judges shall each singly exercise all the powers which any law of this State vests in the judges singly of the supreme court or court of common pleas.

SEC. 14. The chancellor and judges shall respectively hold their offices during good behavior, and receive for their services a compensation which shall be fixed by law and paid quarterly, and shall not be less than the following sums, that is to say: the annual salary of the chief-justice shall not be less than the sum of one thousand two hundred dollars; and the annual salary of the chancellor shall not be less than the sum of one thousand one hundred dollars; and the annual salaries of the associate judges, respectively, shall not be less than the sum of one thousand dollars each. They shall hold no other office of profit, nor receive any fees or perquisites in addition to their salaries for business done by them. The governor may, for any reasonable cause, in his discretion, remove any of them on the address of two-thirds of all the members of each branch of the general assembly. In all cases where the legislature shall so address the governor, the cause of removal shall be entered on the journals of each house. The judge against whom the legislature may be about to proceed shall receive notice thereof, accompanied with the causes

alleged for his removal, at least five days before the day on which either house of the general assembly shall act thereupon.

Sec. 15. The general assembly may by law give to any inferior courts by them to be established, or to one or more justices of the peace, jurisdiction of the criminal matters following, that is to say, assaults and batteries, keeping without license a public house of entertainment, tavern, inn, ale-house, ordinary, or victualling house, retailing or selling without license wine, rum, brandy, gin, whiskey, or spirituous or mixed liquors contrary to law, disturbing camp-meetings held for the purpose of religious worship, disturbing other meetings for the purpose of religious worship, nuisances, horse-racing, cock-fighting, and shooting-matches, larcenies committed by negroes or mulattoes, and the offence of knowingly buying, receiving or concealing, by negroes or mulattoes, of stolen goods and things the subject of larceny, and of any negro or mulatto being accessary to any larceny. The general assembly may by law regulate this jurisdiction, and provide that the proceedings shall be with or without indictment by grand jury, or trial by petit jury, and may grant or deny the privilege of appeal to the court of general sessions of the peace. The matters within this section shall be, and the same hereby are, excepted and excluded from the provision of the constitution that "No person shall for an indictable offence be proceeded against criminally by information," and also from the provision of the constitution concerning trial by jury.

Sec. 16. In civil causes, when pending, the superior court shall have the power, before judgment, of directing, upon such terms as they shall deem reasonable, amendments in pleadings and legal proceedings, so that by error in any of them the determination of causes, according to their real merits, shall not be hindered; and also of directing the examination of witnesses that are aged, very infirm, or going out of the State, upon interrogatories *de bene esse*, to be read in evidence, in case of the death or departure of the witnesses before the trial, or inability by reason of age, sickness, bodily infirmity, or imprisonment, then to attend; and also the power of obtaining evidence from places not within this State.

Sec. 17. At any time pending an action for debt or damages, the defendant may bring into court a sum of money for discharging the same, and the cost then accrued, and the plaintiff not accepting thereof, it shall be delivered for his use to the clerk or prothonotary of the court; and if, upon the final decision of the cause, the plaintiff shall not recover a greater sum than that so paid into court for him, he shall not recover any costs accruing after such payment, except where the plaintiff is an executor or administrator.

Sec. 18. By the death of any party, no suit in chancery or at law, where the cause of action survives, shall abate, but, until the legislature shall otherwise provide, suggestion of such death being entered of record, the executor or administrator of a deceased petitioner or plaintiff may prosecute the said suit; and if a respondent or defendant dies, the executor or administrator being duly served with a *scire facias*, thirty days before the term thereof, shall be considered as a party to the suit, in the same manner as if he had voluntarily made himself a party; and in any of those cases, the court shall pass a decree, or render judgment for or against the executors or adminis-

trators, as to right appertains. But where an executor or administrator of a deceased respondent or defendant becomes a party, the court, upon motion, shall grant such a continuance of the cause as to the judges shall appear proper.

Sec. 19. Whenever a person, not being an executor or administrator, appeals from a decree of the chancellor, or applies for a writ of error, such appeal or writ shall be no stay of proceeding in the chancery, or the court to which the writ issues, unless the appellant or plaintiff in error shall give sufficient security, to be approved respectively by the chancellor, or by a judge of the court from which the writ issues, that the appellant or plaintiff in error shall prosecute respectively his appeal or writ to effect, and pay the condemnation-money and all costs, or otherwise abide the decree in appeal, or the judgment in error, if he fail to make his plea good.

Sec. 20. No writ of error shall be brought upon any judgment heretofore confessed, entered, or rendered, but within five years from this time; nor upon any judgment hereafter to be confessed, entered, or rendered, but within five years after the confessing, entering, or rendering thereof; unless the person entitled to such writ be an infant, *feme-covert*, *non compos mentis*, or a prisoner, and then with five years exclusive of the time of such disability.

Sec. 21. An executor, administrator, or guardian shall file every account with the register for the county, who shall, as soon as conveniently may be, carefully examine the particulars with the proofs thereof, in the presence of such executor, administrator, or guardian, and shall adjust and settle the same according to the very right of the matter and the law of the land; which account so settled shall remain in his office for inspection; and the executor, administrator, or guardian shall, within three months after such settlement, give due notice in writing to all persons entitled to shares of the estate, or to their guardians respectively, if residing within the State, that the account is lodged in the said office for inspection. Exceptions may be made by persons concerned, to both sides of every such account, either denying the justice of the allowances made to the accountant, or alleging further charges against him; and the exceptions shall be heard in the orphans' court for the county; and thereupon the account shall be adjusted and settled according to the right of the matter and the law of the land.

Sec. 22. The registers of the several counties shall respectively hold the register's court in each county. Upon the litigation of a cause the depositions of the witnesses examined shall be taken at large in writing, and make part of the proceedings in the cause. This court may issue process throughout the State to compel the attendance of witnesses. Appeals may be made from the register's court to the superior court, whose decision shall be final. In cases where a register is interested in questions concerning the probate of wills, the granting letters of administration, or executors, administrators, or guardians' accounts, the cognizance thereof shall belong to the orphans' court, with an appeal to the superior court, whose decisions shall be final.

Sec. 23. The prothonotary of the superior court may issue process, take recognizances of bail, and enter judgments according to law and the practice of the court. No judgment in one county shall bind

lands or tenements in another, until a *testatum fieri facias* being issued, shall be entered of record in the office of the prothonotary of the county wherein the lands or tenements are situated.

Sec. 24. The governor shall appoint a competent number of persons to the office of justice of the peace, not exceeding twelve in each county, until two-thirds of both houses of the legislature shall by law direct an addition to the number, who shall be commissioned for seven years, if so long they shall behave themselves well, but may be removed by the governor within that time on conviction of misbehavior in office, or on the address of both houses of the legislature.

Sec. 25. The style in all process and public acts shall be, "*The State of Delaware.*" Prosecutions shall be carried on in the name of the State.

Article VII

Section 1. The members of the senate and house of representatives, the chancellor, the judges, and the attorney-general shall, by virtue of their offices, be conservators of the peace throughout the State; and the treasurer, secretary, prothonotaries, registers, recorders, sheriffs, and coroners shall, by virtue of their offices, be conservators thereof within the counties respectively in which they reside.

Sec. 2. The Representative, and, when there shall be more than one, the Representatives of the people of this State in Congress, shall be voted for at the same places where representatives in the State legislature are voted for, and in the same manner.

Sec. 3. The sheriff and coroner of each county shall be chosen by the citizens residing in such county. They shall hold their respective offices for two years, if so long they behave themselves well, and until successors be duly qualified; but no person shall be twice chosen sheriff upon election by the citizens in any term of four years. They shall be commissioned by the governor. The governor shall fill vacancies in these offices by appointments to continue until the next election, and until successors shall be duly qualified. The legislature, two-thirds of each branch concurring, may vest the appointment of sheriffs and coroners in the governor; but no person shall be twice appointed sheriff in any term of six years.

Sec. 4. The attorney-general, registers in chancery, prothonotaries, registers, clerks of the orphans' court and of the peace, shall respectively be commissioned for five years, if so long they shall behave themselves well, but may be removed by the governor within that time on conviction of misbehavior in office, or on the address of both houses of the legislature. Prothonotaries, registers in chancery, clerks of the orphans' court, registers, recorders, and sheriffs, shall keep their offices in the town or place in each county in which the superior court is usually held.

Sec. 5. Attorneys at law, all inferior officers in the treasury department, election officers, officers relating to taxes, to the poor, and to highways, constables and hundred officers, shall be appointed in such manner as is or may be directed by law.

Sec. 6. All salaries and fees annexed to officers shall be moderate; and no officer shall receive any fees whatever without giving to the person who pays a receipt for them, if required, therein specifying every particular, and the charge for it.

Sec. 7. No costs shall be paid by a person accused on a bill being returned ignoramus, nor on acquittal by a jury.

Sec. 8. The rights, privileges, immunities, and estates of religious societies and corporate bodies shall remain as if the constitution of this State had not been altered. No ordained clergyman or ordained preacher of the gospel of any denomination shall be capable of holding any civil office in the State, or of being a member of either branch of the legislature while he continues in the exercise of the pastoral or clerical functions.

Sec. 9. All the laws of this State existing at the time of making this constitution, and not inconsistent with it, shall remain in force, unless they shall be altered by future laws; and all actions and prosecutions now pending shall proceed as if this constitution had not been made.

Sec. 10. This constitution shall be prefixed to every edition of the laws made by direction of the legislature.

Sec. 11. The legislature shall, as soon as conveniently may be, provide by law for ascertaining what statutes and parts of statutes shall continue to be in force within this State; for reducing them and all acts of the general assembly into such order, and publishing them in such manner that thereby the knowledge of them may be generally diffused; for choosing inspectors and judges of elections, and regulating the same in such manner as shall most effectually guard the rights of the citizens entitled to vote; for better securing personal liberty, and easily and speedily redressing all wrongful restraints thereof; for more certainly obtaining returns of impartial juries; for dividing lands and tenements in sales by sheriffs, where they will bear a division, into as many parcels as may be without spoiling the whole, and for advertising and making the sales in such manner and at such times and places as may render them most beneficial to all persons concerned; and for establishing schools and promoting arts and sciences.

Sec. 12. No property qualification shall be necessary to the holding of any office in this State, except the office of senator in the general assembly, and the office of assessor, inquisitor on lands, and levy-court commissioner, and except such offices as the general assembly shall by law designate.

Article VIII

Members of the general assembly and all officers, executive and judicial, shall be bound by oath or affirmation to support the constitution of this State, and to perform the duties of their respective offices with fidelity.

Article IX

The general assembly, whenever two-thirds of each house shall deem it necessary, may, with the approbation of the governor, propose amendments to this constitution, and at least three, and not more than six months before the next general election of representatives, duly publish them in print for the consideration of the people; and if three-fourths of each branch of the legislature shall, after such an election and before another, ratify the said amendments, they shall be valid to all intents and purposes as parts of this constitution.

No convention shall be called but by the authority of the people; and an unexceptionable mode of making their sense known will be for them at a special election on the third Tuesday of May in any year to vote by ballot for or against a convention, as they shall severally choose to do; and if thereupon it shall appear that a majority of all the citizens in the State, having right to vote for representatives, have voted for a convention, the general assembly shall accordingly at their next session call a convention, to consist of at least as many members as there are in both houses of the legislature, to be chosen in the same manner, at the same places, and at the same time that representatives are by the citizens entitled to vote for representatives, on due notice given for one month, and to meet within three months after they shall be elected. The majority of all the citizens in the State having right to vote for representatives shall be ascertained by reference to the highest number of votes cast in the State at any one of the three general elections next preceding the day of voting for a convention, except when they may be less than the whole number of votes voted both for and against a convention, in which case the said majority shall be ascertained by reference to the number of votes given on the day of voting for or against a convention; and whenever the general assembly shall deem a convention necessary, they shall provide by law for the holding of a special election for the purpose of ascertaining the sense of the majority of the citizens of the State entitled to vote for representatives.

SCHEDULE

That no inconveniences may arise from the amendments of the constitution of this State, and in order to carry the same into complete operation, it is hereby declared and ordained as follows:

SECTION 1. The offices of the present senate and representatives shall not be vacated by any amendment of the constitution made in this convention, nor otherwise affected, except that the terms of the representatives and the terms of the senators which will expire on the first Tuesday of October, in the year of our Lord one thousand eight hundred and thirty-two, are hereby extended to the second Tuesday of November in that year; and the terms of the senators which will expire on the first Tuesday of October, in the year of our Lord one thousand eight hundred and thirty-three, are hereby extended to the second Tuesday of November in that year. And the terms of the senators which will expire on the first Tuesday of October, in the year of our Lord one thousand eight hundred and thirty-four, are hereby extended to the second Tuesday of November in that year.

The general assembly shall meet on the first Tuesday of January next, and shall not be within the amended provision respecting biennial sessions, which biennial sessions shall commence with the session of the general assembly on the first Tuesday of January, in the year of our Lord one thousand eight hundred and thirty-three.

SEC. 2. The offices of the present sheriffs and coroners shall not be vacated by any amendment to the constitution made in this convention, nor otherwise affected, except that the term of office of the sheriff of Sussex County is hereby extended to the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-

two, and until a successor be duly qualified; and on the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-two, shall be the first election for sheriff in Sussex County, under this amended constitution. And the term of the present coroner for Sussex County is hereby extended to the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-four, and until a successor shall be duly qualified; and on the said last-mentioned day shall be the first election for coroner in Sussex County under this amended constitution.

The terms of the present sheriffs and coroners for Kent County and New Castle County are hereby extended to the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-three, and until successors to them respectively be duly qualified; and on or after the first Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-three, the governor shall have power to appoint a sheriff and a coroner for New Castle County, and a sheriff and coroner for Kent County, to continue in office until the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-four, and until successors to them respectively be duly qualified. And on the said last-mentioned day shall be the first election for sheriff and for coroner in New Castle County and in Kent County under this amended constitution, unless a vacancy happen in the office of sheriff or coroner of New Castle or Kent County, or of coroner for Sussex County, before the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-two; in which case an election shall be held on that day for a sheriff or a coroner under this amended constitution, in place of the sheriff or coroner whose office had become vacant.

Sec. 3. The first election for representatives under this amended constitution shall be held on the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-two, which shall be the commencement of biennial elections. At this election one senator shall be chosen in each county for four years. Also, at the biennial election to be held in the several counties on the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-four, two senators in each county will eight hundred and thirty-four, two senators shall be chosen in each county for four years each. But as the term of one senator in each county will expire on the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-three, when no election will be held to provide for this special case, a senator shall be chosen in each county, at the election held on the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-two, for one year, to succeed the senator for such county whose term shall expire on the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-three, and to continue in office until the second Tuesday in November, in the year of our Lord one thousand eight hundred and thirty-four, when two senators shall be chosen in each county as afore provided.

Sec. 4. The term of office of the present governor shall not be vacated nor extended by amendment made to the constitution in this convention; but the said office shall continue during the original term thereof; but the ninth and fourteenth sections of the third article of

this constitution shall be immediately in force as amended. An election for governor shall be held on the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-two.

SEC. 5. This constitution as amended, so far as shall concern the judicial department, shall commence and be in operation from and after the third Tuesday of January, in the year of our Lord one thousand eight hundred and thirty-two. All the courts of justice now existing shall continue with their present jurisdiction, and the chancellor and judges and the clerks of the said courts shall continue in office until the said third Tuesday of January, in the year of our Lord one thousand eight hundred and thirty-two; upon which day the said courts shall be abolished, and the offices of the said chancellor, judges, and clerks shall expire. All writs of error and appeals and proceedings which, on the third Tuesday of January, in the year of our Lord one thousand eight hundred and thirty-two, shall be depending in the high court of errors and appeals, and all the books, records, and papers of said court, shall be transferred to the court of errors and appeals established by this amended constitution; and the said writs of errors, appeals, and proceedings shall be proceeded in, in the said court of errors and appeals, to final judgment, decree, or other determination.

All suits, proceedings, and matters which, on the third Tuesday of January, in the year of our Lord one thousand eight hundred and thirty-two, shall be depending in the supreme court, or court of common pleas, and all books, records, and papers of the said courts, shall be transferred to the superior court established by this amended constitution, and the said suits, proceedings, and matters shall be proceeded in to final judgment or determination in the said superior court. All indictments, proceedings, and matters which, on the third Tuesday of January, in the year of our Lord one thousand eight hundred and thirty-two, shall be depending in the court of general quarter sessions of the peace and jail-delivery, shall be transferred to and proceeded in to final judgment and determination in the court of general sessions of the peace and jail-delivery established by this amended constitution, and all books, records, and papers of said court of general quarter sessions of the peace and jail-delivery shall be transferred to the said court of general sessions of the peace and jail-delivery. All suits, proceedings, and matters which, on the third Tuesday of January, in the year of our Lord one thousand eight hundred and thirty-two, shall be depending in the court of chancery or in the orphans' court, and all records, books, and papers of said courts, respectively, shall be transferred to the court of chancery or orphans' court, respectively, established by this amended constitution, and the said suits, proceedings, and matters shall proceed in to final decree, order, or other determination.

SEC. 6. The registers' courts and justices of the peace shall not be affected by any amendments of the constitution made in this convention; but the said courts and the terms of office of registers and justices of the peace shall remain the same as if said amendments had not been made.

SEC. 7. The general assembly shall have power to make any law necessary to carry into effect this amended constitution.

SEC. 8. The provision in the twentieth section of the sixth article of this amended constitution (being the thirtieth section of the sixth

article of the original constitution) of limitation of writs of error, shall have relation to, and take date from, the twelfth day of June, in the year of our Lord one thousand seven hundred and ninety-two, the date of said original constitution.

SEC. 9. The governor shall have power to issue writs of election to supply vacancies in either house of the general assembly that have happened or may happen.

SEC. 10. It is declared that nothing in this amended constitution gives a writ of error from the court of errors and appeals to the court of oyer and terminer, or court of general sessions of the peace and jail-delivery, nor an appeal from the court of general sessions of the peace and jail-delivery.

The acts of the general assembly, increasing the number of justices of the peace, shall remain in force until repealed by the general assembly; and no office shall be vacated by the amendment to this constitution, unless the same be expressly vacated thereby, or the vacating the same is necessary to give effect to the amendments.

AMENDMENTS TO THE CONSTITUTION OF 1831

(Ratified January 30, 1855)

ART. IV. SECTION 1. Strike out the date, and insert "on the Tuesday next after the first Monday in the month of November of the year;" so that it will read:

"All elections for governor, senators, representatives, sheriffs, and coroners shall be held on the Tuesday next after the first Monday in the month of November of the year in which they are to be held, and be by ballot."

(Ratified January 28, 1875)

ARTICLE 1. Add SEC. 17. The legislature shall have power to enact a general incorporation act to provide incorporation for religious, charitable, literary, and manufacturing purposes, for the preservation of animal and vegetable food, building and loan associations, and for draining low lands; and no attempt shall be made, in such act or otherwise, to limit or qualify the power of revocation reserved to the legislature in this section.

CONSTITUTION OF DELAWARE—1897 *

We the people, hereby ordain and establish this constitution of government for the State of Delaware.

PREAMBLE

Through Divine goodness, all men have by nature the rights of worshiping and serving their Creator according to the dictates of their consciences, of enjoying and defending life and liberty, of acquiring and protecting reputation and property, and in general of attaining objects suitable to their condition, without injury by one to

* Constitution of the State of Delaware. Adopted in Convention June 4th, A. D. 1897. Published by the Secretary of State, by authority of a resolution of the constitutional convention. Republished by Joseph L. Cahall, Secretary of State. Press of the Delawarean, Dover, Delaware. 50 pp.

another; and as these rights are essential to their welfare, for the due exercise thereof, power is inherent in them; and therefore all just authority in the institutions of political society is derived from the people, and established with their consent, to advance their happiness; and they may for this end, as circumstances require, from time to time, alter their Constitution of government.

Article I

BILL OF RIGHTS

Section 1. Although it is the duty of all men frequently to assemble together for the public worship of Almighty God; and piety and morality, on which the prosperity of communities depends, are thereby promoted; yet no man shall or ought to be compelled to attend any religious worship, to contribute to the erection or support of any place of worship, or to the maintenance of any ministry, against his own free will and consent; and no power shall or ought to be vested in or assumed by any magistrate that shall in any case interfere with, or in any manner control the rights of conscience, in the free exercise of religious worship, nor a preference given by law to any religious societies, denominations, or modes of worship.

Section 2. No religious test shall be required as a qualification to any office, or public trust, under this State.

Section 3. All elections shall be free and equal.

Section 4. Trial by jury shall be as heretofore.

Section 5. The press shall be free to every citizen who undertakes to examine the official conduct of men acting in a public capacity; and any citizen may print on any subject, being responsible for the abuse of that liberty. In prosecutions for publications, investigating the proceedings of officers, or where the matter published is proper for public information, the truth thereof may be given in evidence; and in all indictments for libels the jury may determine the facts and the law, as in other cases.

Section 6. The people shall be secure in their persons, houses, papers and possessions, from unreasonable searches and seizures; and no warrant to search any place, or to seize any person or thing, shall issue without describing them as particularly as may be; nor then, unless there be probable cause supported by oath or affirmation.

Section 7. In all criminal prosecutions, the accused hath a right to be heard by himself and his counsel, to be plainly and fully informed of the nature and cause of the accusation against him, to meet the witnesses in their examination face to face, to have compulsory process in due time, on application by himself, his friends or counsel, for obtaining witnesses in his favor, and a speedy and public trial by an impartial jury; he shall not be compelled to give evidence against himself, nor shall he be deprived of life, liberty or property, unless by the judgment of his peers or by the law of the land.

Section 8. No person shall for any indictable offence be proceeded against criminally by information, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger; and no person shall be for the same offence twice put in jeopardy of life or limb; nor shall any man's property

be taken or applied to public use without the consent of his representatives, and without compensation being made.

SECTION 9. All courts shall be open; and every man for an injury done him in his reputation, person, movable or immovable possessions, shall have remedy by the due course of law, and justice administered according to the very right of the cause and the law of the land, without sale, denial, or unreasonable delay or expense; and every action shall be tried in the county in which it shall be commenced, unless when the judges of the court in which the cause is to be tried shall determine that an impartial trial thereof cannot be had in that county. Suits may be brought against the State, according to such regulations as shall be made by law.

SECTION 10. No power of suspending laws shall be exercised but by authority of the General Assembly.

SECTION 11. Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted; and in the construction of jails a proper regard shall be had to the health of prisoners.

SECTION 12. All prisoners shall be bailable by sufficient sureties, unless for capital offences when the proof is positive or the presumption great; and when persons are confined on accusation for such offences their friends and counsel may at proper seasons have access to them.

SECTION 13. The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

SECTION 14. No commission of oyer and terminer, or jail delivery, shall be issued.

SECTION 15. No attainder shall work corruption of blood, nor except during the life of the offender forfeiture of estate. The estates of those who destroy their own lives shall descend or vest as in case of natural death, and if any person be killed by accident no forfeiture shall thereby be incurred.

SECTION 16. Although disobedience to laws by a part of the people, upon suggestions of impolicy or injustice in them, tends by immediate effect and the influence of example not only to endanger the public welfare and safety, but also in governments of a republican form contravenes the social principles of such governments, founded on common consent for common good; yet the citizens have a right in an orderly manner to meet together, and to apply to persons intrusted with the powers of government, for redress of grievances or other proper purposes, by petition, remonstrance or address.

SECTION 17. No standing army shall be kept up without the consent of the General Assembly, and the military shall in all cases and at all times be in strict subordination to the civil power.

SECTION 18. No soldier shall in time of peace be quartered in any house without the consent of the owner; nor in time of war but by a civil magistrate, in manner to be prescribed by law.

SECTION 19. No hereditary distinction shall be granted, nor any office created or exercised, the appointment to which shall be for a longer term than during good behaviour; and no person holding any office under this State shall accept of any office or title of any kind whatever from any king, prince, or foreign State.

We declare that every thing in this article is reserved out of the general powers of government hereinafter mentioned.

Article II

LEGISLATURE

Section 1. The legislative power of this State shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives.

Section 2. The House of Representatives shall be composed of thirty-five members, who shall be chosen for two years. The Senate shall be composed of seventeen members, who shall be chosen for four years.

The State is hereby divided into thirty-five Representative Districts, from each of which shall be chosen, by the qualified electors thereof, one Representative. In New Castle County there shall be fifteen Representative Districts, numbered from one to fifteen inclusive; in Kent County, ten Representative Districts, numbered from one to ten inclusive; and in Sussex County, ten Representative Districts, numbered from one to ten inclusive. The State is also hereby divided into seventeen Senatorial Districts, from each of which shall be chosen, by the qualified electors thereof, one Senator. In New Castle County there shall be seven Senatorial Districts, numbered from one to seven inclusive; in Kent County, five Senatorial Districts, numbered from one to five inclusive; and in Sussex County, five Senatorial Districts, from one to five inclusive.

The Representative Districts in New Castle County are and shall be as follows:

Number One. All that portion of the City of Wilmington included within the Second and Fourth Wards, and those parts of the Sixth and Eighth Wards, respectively, lying south of and bounded by the central line of Eighth street.

Number Two. All that portion of the said city included within the Ninth Ward, and those parts of the Sixth and Eighth Wards, respectively, lying north of and bounded by the central line of Eighth street.

Number Three. All that portion of the said city included within the Seventh Ward, and that part of the Fifth Ward lying north of and bounded by a straight line including the central line of Eighth street.

Number Four. All that portion of the said city included within the First and Third Wards, and that part of the Fifth Ward lying south of and bounded by the central line of Eighth street, east of and bounded by the central line of Adams street, and west of and bounded by the central line of Market street.

Number Five. All that portion of the said city included within the Tenth, Eleventh and Twelfth Wards, and that part of the Fifth Ward lying south of and bounded by a straight line including the central line of Eighth street, west of and bounded by the central line of Adams street, and bounded on the west by the westerly boundary line of the said city.

Number Six. Brandywine Hundred.

Number Seven. Christiana Hundred.

Number Eight. Mill Creek Hundred.

Number Nine. White Clay Creek Hundred.

Number Ten. New Castle Hundred.

Number Eleven. Pencader Hundred.

Number Twelve. Red Lion Hundred.
Number Thirteen. St. Georges Hundred.
Number Fourteen. Appoquinimink Hundred.
Number Fifteen. Blackbird Hundred.

The Representative Districts in Kent County are and shall be as follows:

Number One. Duck Creek Hundred.

Number Two. Little Creek Hundred and the First Election District of East Dover Hundred.

Number Three. Kenton Hundred.

Number Four. West Dover Hundred and all that portion of East Dover Hundred lying next to West Dover Hundred and separated from the rest of East Dover Hundred by the following boundary lines: beginning at the middle of the public road leading from the Horsehead road to Kenton at the point of intersection of Kenton Hundred and East Dover Hundred, thence running along the middle of the said road to the Horsehead road, thence running in a westerly direction along the middle of the said Horsehead road a short distance to a short road leading from the said Horsehead road to the road from Dover to Hazlettville, known as the Hazlettville road, thence running along the middle of the said short road from the Horsehead road to the said Hazlettville road, thence running in a westerly direction along the middle of the said Hazlettville road a short distance to the road leading therefrom to Wyoming, thence running along the middle of the said road leading from the said Hazlettville road to Wyoming to the point of intersection of East Dover Hundred and North Murderkill Hundred.

Number Five. All that portion of East Dover Hundred not included in Districts numbers two and four.

Number Six. Parts of North Murderkill, South Murderkill and Mispillion Hundreds included within the following boundary lines: beginning at the intersection of the southern line of South Murderkill Hundred with the State of Maryland, thence running along the division line between Mispillion Hundred and South Murderkill Hundred to the public road leading from Whiteleysburg to Harrington, thence running in a southeasterly and easterly direction along the middle of said public road to the public road leading from Masten's Corner to Vernon, at or near White's Church, thence running in a northeasterly direction along the middle of said public road leading from Masten's Corner to Vernon, a short distance to the public road leading therefrom to the town of Harrington, being a continuation of the road leading from Whiteleysburg to Harrington, thence running in a southeasterly direction to the intersection of West street in the town of Harrington, thence running in a northerly direction along the middle of said West street to the middle of Wolcott street in said town of Harrington, thence running in an easterly direction along the middle of said Wolcott street to the middle of Dorman street in said town of Harrington, thence running in a northerly direction along the middle of said Dorman street to Brown's Branch, thence running in an easterly direction with the course of said Branch to the Delaware Railroad, thence running in a northerly direction along said Delaware Railroad to Beaver Dam Branch in South Murderkill Hundred, thence following the course of said Beaver Dam Branch in a northwesterly direction to the public

road leading from Felton to Whiteleysburg, thence running in a northeasterly direction along the middle of the said public road from Felton to Whiteleysburg to the Owl's Nest road, thence running in a northerly direction along the middle of the said Owl's Nest road to the intersection of the Cowgill road from Woodside to Petersburg, thence running in a northerly direction along the middle of the said Cowgill road to the Reed road running from Woodside to DuPont's school house, thence running in a northwesterly direction along the middle of the said Reed road to DuPont's school house, thence running in a northerly direction along the middle of the public road leading from Willow Grove to Camden, a short distance to Stubb's Corner, thence running in a westerly and northwesterly and westerly direction along the middle of the public road leading from DuPont's school house to the Almshouse to Gray's Corner, thence continuing in a direct westerly line to the southern boundary line of West Dover Hundred, thence following the southern boundary line of West Dover Hundred in a westerly direction to the State of Maryland, thence running in a southerly direction along the eastern boundary line of the State of Maryland to the place of beginning.

Number Seven. All that portion of North Murderkill Hundred not included in District number six.

Number Eight. All that portion of South Murderkill Hundred not included in District number six.

Number Nine. All that portion of Mispillion Hundred not included in District number six.

Number Ten. Milford Hundred.

The Representative Districts in Sussex County are and shall be as follows:

Number One. Cedar Creek Hundred.

Number Two. All that portion of Nanticoke Hundred which lies north and west of Gravelly Branch, beginning at a point where the said Gravelly Branch intersects the dividing line between Georgetown and Nanticoke Hundreds and running in a southwesterly course to what was formerly known as Rest's Old Mill, thence along said branch to what was formerly known as Collins' Mills, to its mouth being at the head of Middleford Mill Pond; together with North West Fork Hundred.

Number Three. All that portion of Nanticoke Hundred which lies south and east of said Gravelly Branch, beginning at a point where the said Gravelly Branch intersects the dividing line between Nanticoke and Georgetown Hundreds, running in a southwesterly course to what was formerly known as Rest's Old Mill, thence along the said branch to what was formerly known as Collins' Mills, to its mouth at the head of Middleford Mill Pond; together with Seaford Hundred.

Number Four. Broad Creek Hundred.

Number Five. Little Creek Hundred.

Number Six. Dagsboro and Gumboro Hundreds.

Number Seven. Baltimore Hundred.

Number Eight. Indian River Hundred.

Number Nine. Georgetown Hundred.

Number Ten. Broadkiln and Lewes and Rehoboth Hundreds.

The Senatorial Districts in New Castle County are and shall be as follows:

Number One. All that portion of the City of Wilmington lying north of and bounded by a straight line including the central line of Eighth street extending from the Delaware River to the westerly boundary of said city.

Number Two. All that portion of the said city lying south of and bounded by the straight line aforesaid including the central line of Eighth street.

Number Three. Brandywine Hundred, together with all that portion of Christiana Hundred lying north of and bounded by the central line of Lancaster Turnpike.

Number Four. Mill Creek Hundred, together with all that portion of Christiana Hundred lying south of and bounded by the central line of the Lancaster Turnpike.

Number Five. White Clay Creek Hundred, Red Lion Hundred and New Castle Hundred.

Number Six. Pencader Hundred and St. Georges Hundred.

Number Seven. Appoquinimink Hundred and Blackbird Hundred.

The Senatorial Districts in Kent County are and shall be as follows:

Number One. The first and Second Representative Districts.

Number Two. The third and fourth Representative Districts.

Number Three. The fifth and seventh Representative Districts.

Number Four. The sixth and ninth Representative Districts.

Number Five. The eighth and tenth Representative Districts.

The Senatorial Districts in Sussex County are and shall be as follows:

Number One. The first and second Representative Districts.

Number Two. The third and fourth Representative Districts.

Number Three. The fifth and sixth Representative Districts.

Number Four. The seventh and eighth Representative Districts.

Number Five. The ninth and tenth Representative Districts.

All territory which shall hereafter be added to and included within the city of Wilmington shall become part of the Representative Districts in New Castle County, as follows:

All lying east of a straight line including the central line of Market street, below Eighth street, as the said two streets now exist, and south of a straight line including the central line of Eighth street, as the same now exists, shall become part of Representative District number one.

All lying north of a straight line including the central line of Eighth street, as the same now exists, extending from the northeasterly side of Brandywine Creek to the Delaware River, or north of the Brandywine Creek, westerly from the point of intersection of the said straigth line with the northeasterly side of the said Creek, shall become part of Representative District number two.

All lying north of a straight line including the central line of Eighth street, as the same now exists, south of the Brandywine Creek, and west of the central line of Market street, as the same now exists, shall become part of Representative District number three.

All lying between a straight line including the central line of Market street extended southerly and a straight line including the central line of Washington street extended southerly shall become part of Representative District number four.

All lying south of a straight line including the central line of

Eighth street, as the same now exists, and west of a straight line including the central line of Washington street, as the same now exists, shall become part of Representative District number five.

In case of any change in the boundary line between this State and the State of Pennsylvania any of the said Senatorial and Representative Districts in New Castle County affected thereby shall conform to any new boundary line between the said States.

All territory which shall hereafter be added to and included within the City of Wilmington shall become part of the Senatorial Districts in New Castle County as follows:

All lying north of a straight line including the central line of Eighth street, extended from the Delaware River westwardly, shall become part of Senatorial District number one.

All lying south of a straight line including the central line of Eighth street, extended from the Delaware River westwardly shall become part of Senatorial District number two.

Whenever by the extension of the limits of the City of Wilmington territory forming part of any Representative or Senatorial District, as hereby established shall be included within the limits of said city, such Representative or Senatorial District shall thereafter consist of the residue thereof, not so included within said limits.

The several Representative and Senatorial Districts in the State shall, except as herein otherwise provided, continue to be bounded, described and defined by the lines of the hundreds, wards, election district, public roads, railroad and other boundaries herein mentioned, as the same are now established and located.

Section 3. No person shall be a Senator who shall not have attained the age of twenty-seven years and have been a citizen and inhabitant of the State three years next preceding the day of his election and the last year of that term and inhabitant of the Senatorial District in which he shall be chosen, unless he shall have been absent on the public business of the United States or of this State. No person shall be a Representative who shall not have attained the age of twenty-four years, and have been a citizen and inhabitant of the State three years next preceding the day of his election, and the last year of that term an inhabitant of the Representative District in which he shall be chosen, unless he shall have been absent on the public business of the United States or of this State.

Section 4. The General Assembly shall meet on the first Tuseday of January, biennially, and at such other times as the Governor shall convene the same.

Section 5. The General Assembly shall meet and sit in Dover, the capital of the State; provided, however, that in case of insurrection, conflagration or epidemic disease the General Assembly may temporarily meet and sit elsewhere.

Section 6. Whenever there shall be a vacancy in either House of the General Assembly, by reason of failure to elect, ineligibility, death, resignation or otherwise, a writ of election shall be issued by the presiding officer of the House in which the vacancy exists, or in case of necessity in such other manner as shall be provided by law; and the person thereupon chosen to fill such vacancy shall hold office for the residue of the term. And whenever there shall be such vacancy in either House, and the General Assembly is not in session, the Governor shall have power to issue a writ of election to fill such

vacancy, which writ shall be executed as a writ issued by the presiding officer of either House in case of vacancy, and the person thereupon chosen to fill such vacancy shall hold office for the residue of the term.

SECTION 7. The Senate at each biennial session shall choose one of its members president pro tempore, who shall preside in the absence of the Lieutenant-Governor, or in case the latter shall become Governor or while he continues in the exercise of the office of Governor by reason of disability of the Governor. The Senate shall also choose its other officers and in the absence of the Lieutenant Governor and its president pro tempore may, from time to time, as occasion may require, appoint one of its members to preside. The House of Representatives shall choose one of its members speaker and also choose its other officers, and in the absence of the speaker may, from time to time as occasion may require, appoint one of its members to preside.

SECTION 8. Each House shall be the judge of the elections, returns and qualifications of its own members; and a majority of all the members elected to each House shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and shall have power to compel the attendance of absent members, in such manner, and under such penalties, as shall be deemed expedient.

SECTION 9. Each House may determine the rules of its proceedings, punish any of its members for disorderly behavior, and with the concurrence of two-thirds of all the members elected thereto expel a member, and shall have all other powers necessary for a branch of the Legislature of a free and independent State.

SECTION 10. Each House shall keep a journal of its proceedings, and publish the same immediately after every session, except such parts as may require secrecy, and the yeas and nays of the members on any question shall, at the desire of any member, be entered on the journal. No bill or joint resolution, except in relation to adjournment, shall pass either House unless the final vote shall have been taken by yeas and nays, and the names of the members voting for and against the same shall be entered on the journal, nor without the concurrence of a majority of all the members elected to each House.

SECTION 11. The doors of each House, and of Committees of the Whole, shall be open unless when the business is such as ought to be kept secret.

SECTION 12. Neither House shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

SECTION 13. The Senators and Representatives shall, in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House they shall not be questioned in any other place.

SECTION 14. No Senator or Representative shall, during the time for which he shall have been elected, be appointed to any civil office under this State which shall have been created, or the emoluments of which shall have been increased, during such time. No member of Congress, nor any person holding any office under this State, or

the United States, except officers usually appointed by the courts of justice respectively, attorneys-at-law and officers in the militia, holding no disqualifying office, shall during his continuance in Congress or in office be a Senator or Representative; nor shall any person while concerned in any army or navy contract be a Senator or Representative.

SECTION 15. The members of the General Assembly, except the presiding officers of the respective Houses, shall receive as compensation for their services a per diem allowance of five dollars, and the presiding officers a per diem allowance of six dollars for each day of the session, not exceeding sixty days; and should they remain longer in session they shall serve without compensation. In case a special or extra session of the General Assembly be called the members and presiding officers shall receive like compensation for a period not exceeding thirty days.

The compensation of members of the General Assembly and of the Lieutenant Governor as president of the Senate shall be paid out of the Treasury of the State.

The cost to the State for stationery and other supplies for each member of the General Assembly shall not exceed the sum of twenty-five dollars for any regular session, or the sum of ten dollars for any special session.

SECTION 16. No bill or joint resolution, except bills appropriating money for public purposes, shall embrace more than one subject, which shall be expressed in its title.

SECTION 17. Lotteries, the sale of lottery tickets, pool selling and all other forms of gambling are prohibited in this State. The General Assembly shall enforce this section by appropriate legislation.

SECTION 18. No divorce shall be granted, nor alimony allowed, except by the judgment of a court, as shall be prescribed by general and uniform law.

SECTION 19. The General Assembly shall not pass any local or special law relating to fences; the straying of live stock; ditches; the creation or changing the boundaries of school districts; or the laying out, opening, alteration, maintenance or vacation, in whole or in part, of any road, highway, street, lane or alley.

SECTION 20. Any member of the General Assembly who has a personal or private interest in any measure or bill pending in the General Assembly shall disclose the fact to the House of which he is a member and shall not vote thereon.

SECTION 21. No person who shall be convicted of embezzlement of the public money, bribery, perjury or other infamous crime, shall be eligible to a seat in either House of the General Assembly, or capable of holding any office of trust, honor or profit under this State.

SECTION 22. Every person who shall give, offer or promise, directly or indirectly, any money, testimonial, privilege, personal advantage or thing of value to any executive or judicial officer of this State or to any member of either House of the General Assembly for the purpose of influencing him in the performance of any of his official or public duties shall be deemed guilty of bribery, and shall be punished in such manner as shall be provided by law.

SECTION 23. Every statute shall be a public law unless otherwise declared in the statute itself.

Section 24. The State Treasurer shall settle his accounts annually with the General Assembly or a joint committee thereof, which shall be appointed at every biennial session. No person who has served in the office of State Treasurer shall be eligible to a seat in either House of the General Assembly until he shall have made a final settlement of his accounts as treasurer and discharged the balance, if any, due thereon.

Article III

EXECUTIVE

Section 1. The supreme executive powers of the State shall be vested in a Governor.

Section 2. The Governor shall be chosen by the qualified electors of the State, once in every four years, at the general election.

Section 3. The returns of every election for Governor shall be sealed up and immediately transmitted to the President of the Senate, or in case of a vacancy in the office of President of the Senate, or his absence from the State, to the Secretary of State, who shall keep the same until a President of the Senate shall be chosen, to whom they shall be immediately transmitted after his election, who shall open and publish the same in the presence of the members of both Houses of the General Assembly. Duplicates of the said returns shall also be immediately lodged with the Prothonotary of each county. The person having the highest number of votes shall be Governor; but if two or more shall be equal in the highest number of votes, the members of the two Houses shall, by joint ballot, choose one of them to be Governor; and if, upon such ballot, two or more of them shall still be equal and highest in votes, the President of the Senate shall have the casting vote.

Section 4. Contested elections of the Governor or Lieutenant-Governor shall be determined by a joint committee, consisting of one-third of all the members elected to each House of the General Assembly, to be selected by ballot of the Houses respectively. Every member of the committee shall take an oath or affirmation that in determining the said election he will faithfully discharge the trust reposed in him; and the committee shall always sit with open doors.

The Chief Justice, or, in case of his absence or disability, the Chancellor shall preside at the trial of any contested election of Governor or Lieutenant-Governor, and shall decide questions regarding the admissibility of evidence, and shall, upon request of the committee, pronounce his opinion upon other questions of law involved in the trial.

Section 5. The Governor shall hold his office during four years from the third Tuesday in January next ensuing his election; and shall not be elected a third time to said office.

Section 6. The Governor shall be at least thirty years of age, and have been a citizen and inhabitant of the United States twelve years next before the day of his election, and the last six years of that term an inhabitant of this State, unless he shall have been absent on public business of the United States or of this State.

Section 7. The Governor shall, at stated times, receive for his services an adequate salary to be fixed by law, which shall be neither increased nor diminished during the period for which he shall have been elected.

SECTION 8. He shall be commander-in-chief of the army and navy of this State, and of the militia, except when they shall be called into the service of the United States.

SECTION 9. He shall have power, unless herein otherwise provided, to appoint, by and with the consent of a majority of all the members elected to the Senate, such officers as he is or may be authorized by this Constitution or by law to appoint. He shall have power to fill all vacancies that may happen during the recess of the Senate, in offices to which he may appoint, except in the offices of Chancellor, Chief Justice and Associate Judges, by granting Commissions which shall expire at the end of the next session of the Senate.

He shall have power to fill all vacancies that may happen in elective offices, except in the offices of Lieutenant-Governor and members of the General Assembly, by granting Commissions which shall expire when their sucessors shall be duly qualified.

In case of vacancy in an elective office, except as aforesaid, a person shall be chosen to said office for the full term at the next general election, unless the vacancy shall happen within two months next before such election, in which case the election for said office shall be held at the second succeeding general election.

Unless herein otherwise provided, confirmation by the Senate of officers appointed by the Governor shall be required only where the salary, fees and emoluments of office shall exceed the sum of five hundred dollars annually.

SECTION 10. The Governor shall appoint, by and with the consent of a majority of all the members elected to the Senate, a Secretary of State, who shall hold office during the pleasure of the Governor. He shall keep a fair register of all the official acts and proceedings of the Governor, and shall, when required by either House of the General Assembly lay the same, and all papers, minutes and vouchers, relative thereto, before such House, and shall perform such other duties as shall be enjoined upon him by law. He shall have a compensation for his service to be fixed by law.

SECTION 11. No person shall be elected or appointed to an office within a county who shall not have a right to vote for a Representative in the General Assembly, and have been a resident therein one year next before his election or appointment, nor hold the office longer than he continues to reside in the county, unless herein otherwise provided.

No member of Congress, nor any person holding or exercising any office under the United States, except officers usually appointed by the courts of justice respectively and attorneys-at-law, shall at the same time hold or exercise any office of profit under this State, unless herein otherwise provided.

No person shall hold more than one of the following offices at the same time, to-wit: Secretary of State, Attorney-General, Insurance Commissioner, State Treasurer, Auditor of Accounts, Prothonotary, Clerk of the Peace, Register of Wills, Recorder, Sheriff or Coroner.

SECTION 12. All Commissions shall be in the name of the State, and shall be sealed with the great seal and signed by the Governor.

SECTION 13. The Governor may for any reasonable cause remove any officer, except the Lieutenant Governor and members of the General Assembly, upon the address of two-thirds of all the members elected to each House of the General Assembly. Whenever the Gen-

eral Assembly shall so address the Governor, the cause of removal shall be entered on the journals of each House. The person against whom the General Assembly may be about to proceed shall receive notice thereof, accompanied with the cause alleged for his removal, at least ten days before the day on which either House of the General Assembly shall act thereon.

SECTION 14. The Governor may require information in writing from the officers in the executive department, upon any subject relating to the duties of their respective offices.

SECTION 15. He shall, from time to time, give to the General Assembly information of affairs concerning the State and recommend to its consideration such measures as he shall judge expedient.

SECTION 16. He may on extraordinary occasions convene the General Assembly by proclamation; and in case of disagreement between the two Houses with respect to the time of adjournment, adjourn them to such time as he shall think proper, not exceeding three months. He shall have power to convene the Senate in extraordinary session by proclamation, for the transaction of executive business.

SECTION 17. He shall take care that the laws be faithfully executed.

SECTION 18. Every bill which shall have passed both Houses of the General Assembly shall, before it becomes a law, be presented to the Governor; if he approve, he shall sign it; but if he shall not approve, he shall return it with his objections to the House in which it shall have originated, which House shall enter the objections at large on the journal and proceed to reconsider it. If, after such reconsideration, three-fifths of all the members elected to that House shall agree to pass the bill, it shall be sent together with the objections to the other House, by which it shall likewise be reconsidered, and if approved by three-fifths of all the members elected to that House, it shall become a law; but in neither House shall the vote be taken on the day on which the bill shall be returned to it. In all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the Governor within ten days, Sundays excepted, after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the General Assembly shall, by adjournment, prevent its return, in which case it shall not become a law without the approval of the Governor. No bill shall become a law after the final adjournment of the General Assembly, unless approved by the Governor within thirty days after such adjournment. The Governor shall have power to disapprove of any item or items of any bill making appropriations of money, embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items of appropriation disapproved shall be void, unless repassed according to the rules and limitations prescribed for the passage of other bills, over the Executive veto. Every order, resolution, or vote to which the concurrence of both Houses of the General Assembly may be necessary, except on a question of adjournment, shall be presented to the Governor, and before the same shall take effect be approved by him, or being disapproved by him, shall be repassed by three-fifths of all the members elected to each House of the General Assembly, according to the rules and limitations prescribed in the case of a bill.

SECTION 19. A Lieutenant-Governor shall be chosen at the same time, in the same manner, for the same term, and subject to the same provisions as the Governor; he shall possess the same qualifications of eligibility for office as the Governor; he shall be President of the Senate, but shall have no vote unless the Senate be equally divided.

The Lieutenant Governor while acting as President of the Senate, or as member of the Board of Pardons, whenever attending the sessions of said Board, shall receive for his services the same compensation per day as the Speaker of the House of Representatives.

SECTION 20. In case the person elected Governor shall die or become disqualified before the commencement of his term of office, or shall refuse to take the same, or in case of the removal of the Governor from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Lieutenant-Governor; and in case of removal, death, resignation, or inability of both the Governor and Lieutenant-Governor, the Secretary of State, or if there be none, or in case of his removal, death, resignation, or inability, then the Attorney-General, or if there be none, or in case of his removal, death, resignation, or inability, then the President pro tempore of the Senate, or if there be none, or in case of his removal, death, resignation, or inability, then the Speaker of the House of Representatives shall act as Governor until the disability of the Governor or Lieutenant-Governor is removed, or a Governor shall be duly elected and qualified.

The foregoing provisions of this Section shall apply only to such persons as are eligible to the office of Governor under this Constitution at the time the powers and duties of the office of Governor shall devolve upon them respectively.

Whenever the powers and duties of the office of Governor shall devolve upon the Lieutenant-Governor, Secretary of State, or Attorney-General, his office shall become vacant; and whenever the powers and duties of the office of Governor shall devolve upon the President pro tempore of the Senate, or the Speaker of the House of Representatives, his seat as a member of the General Assembly shall become vacant; and any such vacancy shall be filled as directed by this Constitution; provided, however, that such vacancy shall not be created in case either of the said persons shall be acting as Governor during a temporary disability of the Governor.

SECTION 21. The term of office of the Attorney-General and Insurance Commissioner shall be four years; and the terms of office of the State Treasurer and Auditor of Accounts shall be two years. These officers shall be chosen by the qualified electors of the State at general elections, and be commissioned by the Governor.

SECTION 22. The terms of office of Prothonotaries, Clerks of the Peace, Registers of Wills, Recorders, Registers in Chancery and Clerks of the Orphans' Court shall be four years; and the terms of office of Sheriffs and Coroners shall be two years. These officers shall be chosen by the qualified electors of the respective counties at general elections, and be commissioned by the Governor.

No person shall be twice elected Sheriff in any term of four years.

SECTION 23. Prothonotaries, Clerks of the Peace, Registers of Wills, Recorders, Registers in Chancery, Clerks of the Orphans' Court and Sheriffs shall keep their offices in the town or place in each county in which the Superior Court is usually held.

Article IV

Judiciary

Section 1. The judicial power of this State shall be vested in a Supreme Court, a Superior Court, a Court of Chancery, an Orphans' Court, a Court of Oyer and Terminer, a Court of General Sessions, a Register's Court, Justices of the Peace and such other courts as the General Assembly, with the concurrence of two-thirds of all the members elected to each House, shall from time to time by law establish.

Section 2. There shall be six State Judges who shall be learned in the law. One of them shall be Chancellor, one of them Chief Justice and the other four of them Associate Judges.

The Chancellor, Chief Justice and one of the Associate Judges may be appointed from and reside in any part of the State. The other three Associate Judges may be appointed from any part of the State. They shall be resident Associate Judges, and one of them shall reside in each county.

In case the commissions of two or more of the Associate Judges shall be of the same date, they shall, as soon as conveniently may be after their appointment, determine their seniority by lot, and certify the result to the Governor.

Section 3. The Chancellor, Chief Justice and Associate Judges shall be appointed by the Governor, by and with the consent of a majority of all the members elected to the Senate, for the term of twelve years: Provided, however, that the Chancellor, Chief Justice and Associate Judges first to be appointed under this amended Constitution, shall be appointed by the Governor without the consent of the Senate, for the term of twelve years; and the persons so appointed shall enter upon the discharge of the duties of their respective offices upon taking the oath of office prescribed by this amended Constitution. If a vacancy shall occur, by expiration of term or otherwise, at a time when the Senate shall not be in session, the Governor shall within thirty days after the happening of any such vacancy convene the Senate, for the term of twelve years; and the persons so appointed vacancy, and the transaction of such other executive business as may come before it. Such vacancy shall be filled as aforesaid for the full term. The said appointment shall be such that no more than three of the said five law judges, in office at the same time, shall have been appointed from the same political party.

Section 4. The Chancellor, Chief Justice and Associate Judges shall respectively receive from the State for their services a compensation which shall be fixed by law and paid quarterly, and shall not be less than the annual sum of three thousand dollars, and they shall not receive any fees or perquisites in addition to their salaries for business done by them except as provided by law. They shall hold no other office of profit.

Section 5. The Chief Justice and the four Associate Judges shall compose the Superior Court, the Court of General Sessions and the Court of Oyer and Terminer, as hereinafter prescribed.

The said five judges shall designate those of their number who shall hold the said courts in the several counties. Whenever practicable the said courts shall consist of three of the said five judges, but no more than three of them shall sit together in any of the said

courts. In each of the said courts the Chief Justice when present shall preside, and in his absence the senior Associate Judge present shall preside.

Two shall constitute a quorum in the said courts respectively except in the court of Oyer and Terminer, where three shall constitute a quorum.

One may open and adjourn court.

SECTION 6. Two sessions of the Superior Court, or Court of General Sessions, or one session of each of the said courts, or one session of the Court of Oyer and Terminer and of either of the other of the said courts may at the same time be held in the same county or in different counties, and the business in the several counties may be distributed and apportioned in such manner as shall be provided by the rules of the said courts respectively.

SECTION 7. The Superior Court shall have jurisdiction of all causes of a civil nature, real, personal and mixed, at common law and all other the jurisdiction and powers vested by the laws of this State in the Superior Court.

SECTION 8. The Court of General Sessions shall have all the jurisdiction and powers vested by the laws of this State in the Court of General Sessions of the Peace and Jail Delivery.

SECTION 9. The Court of Oyer and Terminer shall have all the jurisdiction and powers vested by the laws of this State in the Court of Oyer and Terminer.

SECTION 10. The Chancellor shall hold the Court of Chancery. This court shall have all the jurisdiction and powers vested by the laws of this State in the Court of Chancery.

SECTION 11. The Orphans' Court in each County shall consist of the Chancellor and the resident Associate Judge of the county. The Chancellor when present shall preside. One of them shall constitute a quorum.

When their opinions are opposed, or when the decision is made by one of them, or when the decision is made by both of them in matters involving a right to real estate or the appraised value or other value thereof, and in all matters affecting guardians or guardians' accounts, there shall be an appeal to the Superior Court for the county, which shall have final Jurisdiction in every such case. Upon such appeal, if the Associate Judge sat in the cause below, he shall not sit in the Superior Court. In all other cases the decision of the Orphans' Court shall be final.

This court shall have all the jurisdiction and powers vested by the laws of this State in the Orphans' Court.

SECTION 12. The Supreme Court shall have jurisdiction as follows:

(1) To issue writs of error to the Superior Court and to determine finally all matters in error in the judgments and proceedings of said Superior Court.

(2) To issue upon application of the accused, after conviction and sentence, writs of error to the Court of Oyer and Terminer and the Court of General Sessions in all cases in which the sentence shall be death, imprisonment exceeding one month, or fine exceeding one hundred dollars, and in such other cases as shall be provided by law; and to determine finally all matters in error in the judgments and proceedings of said Court of Oyer and Terminer and Court of General Sessions in such cases; provided, however, that there shall be no writ

of error to the Court of General Sessions in cases of prosecution under Section 8 of Article V of this Constitution.

(3) To receive appeals from the Court of General Sessions in cases of prosecution under Section 8 of Article V of this Constitution, and to determine finally all matters of appeal in such cases.

(4) To receive appeals from the Court of Chancery, and to determine finally all matters of appeals in the interlocutory or final decrees and to proceedings in chancery.

(5) To issue writs of prohibition, certiorari and mandamus to the Superior Court, the Court of Oyer and Terminer, the Court of General Sessions, the Court of Chancery and the Orphans' Court, or any of the judges of the said courts, and all orders, rules and processes proper to give effect to the same. The General Assembly shall have power to provide by law of what judges of the Supreme Court shall consist for the purpose of this paragraph and in what manner, and by what judges of the Supreme Court the jurisdiction and power hereby conferred may be exercised in vacation.

Section 13. The Supreme Court upon a writ of error to the Superior Court, Court of Oyer and Terminer, or Court of General Sessions, or upon appeal from the Court of General Sessions, shall consist of the Chancellor and such of the other five judges as did not sit in the cause below. The Chancellor when present shall preside, and in his absence the Chief Justice when present shall preside, and in his absence the senior Associate Judge present shall preside. Any three of them shall constitute a quorum, and one of them may open and adjourn court.

Section 14. The Supreme Court upon an appeal from the Court of Chancery shall consist of the Chief Justice and the four Associate Judges.

The Chief Justice when present shall preside, and in his absence the senior Associate Judge present shall preside. Any three of them shall constitute a quorum, and one of them may open and adjourn court.

Section 15. Whenever the Superior Court, Court of Oyer and Terminer or Court of General Sessions shall consider that a question of law ought to be heard by the Court in Banc, they shall have power, upon application of either party, to direct it to be so heard; and in that case the Court in Banc shall consist of the Chief Justice and the four Associate Judges.

The Chief Justice when present shall preside, and in his absence the senior Associate Judge present shall preside. Any four of them shall constitute a quorum, and one of them may open and adjourn court.

The Superior Court, Court of Oyer and Terminer or Court of General Sessions in exercising this power, may direct a cause to be proceeded into verdict or judgment in that court, or to be otherwise proceeded in, as shall be best for expediting justice.

Section 16. In matters of chancery jurisdiction in which the Chancellor is interested or otherwise disqualified, the Chief Justice shall have jurisdiction, and there shall be an appeal to the Supreme Court, which shall in this case consist of the four Associate Judges, the senior Associate Judge present presiding. Any three of them shall constitute a quorum, and one of them may open and adjourn court.

Section 17. The Chief Justice, or, in case of his absence from the

State or disability, the senior Associate Judge, shall have power, during the absence of the Chancellor from the State or his temporary disability, to grant restraining orders and preliminary injunctions, pursuant to the rules of the Court of Chancery; provided, that nothing herein contained shall be construed to confer general jurisdiction over the case.

Section 18. The Governor shall have power to commission a judge ad litem for the purpose of constituting a quorum in the Superior Court, Court of Oyer and Terminer, Court of General Sessions or Supreme Court, where by reason of legal exception to the Chancellor or any judge or for other cause a quorum could not otherwise be had. The commission in such case shall confine the office to the cause, and it shall expire on the determination of the cause. The judge so appointed shall receive a resonable compensation to be fixed by the General Assembly. A member of Congress, or any person holding or exercising an office under the United States, shall not be disqualified from being appointed a judge ad litem.

Section 19. The jurisdiction of each of the aforesaid courts shall be co-extensive with the State. Process may be issued out of each court, in either county, into every county. No costs shall be awarded against any party to a cause by reason of the fact that suit is brought in a county other than that in which the defendant or defendants may reside at the time of bringing suit.

Section 20. The General Assembly, notwithstanding anything contained in this Article, shall have power to repeal or alter any act of the General Assembly, giving jurisdiction to the Court of Oyer and Terminer, the Superior Court, the Court of General Sessions of the Peace and Jail Delivery, the Orphans' Court or the Court of Chancery, in any matter, or giving any power to either of the said courts. The General Assembly shall also have power to confer upon the Courts of Oyer and Terminer, the Superior Court, the Court of General Sessions, the Orphans' Court and the Court of Chancery jurisdiction and powers in addition to those hereinbefore mentioned. Until the General Assembly shall otherwise direct, there shall be an appeal to the Supreme Court in all cases in which there is an appeal, according to any act of the General Assembly, to the Court of Errors and Appeals.

Section 21. Until the General Assembly shall otherwise provide, the Chancellor shall exercise all the powers which any law of this State vests in the Chancellor, besides the general powers of the Court of Chancery, and the Chief Justice and Associate Judges shall each singly exercise all the powers which any law of this State vests in the judges singly of the Superior Court.

Section 22. Judges shall not charge juries with respect to matters of fact, but may state the questions of fact in issue and declare the law.

Section 23. In civil causes where matters of fact are at issue, if the parties agree, such matters of fact shall be tried by the court, and judgment rendered upon their decision thereon as upon a verdict by a jury.

Section 24. In civil causes, when pending, the Superior Court shall have the power, before judgment, of directing, upon such terms as it shall deem reasonable, amendments, impleadings and legal proceedings, so that by error in any of them, the determination of causes,

according to their real merits, shall not be hindered; and also of directing the examination of witnesses who are aged, very infirm, or going out of the State, upon interrogatories de bene esse, to be read in evidence, in case of the death or departure of the witnesses before the trial, or inability by reason of age, sickness, bodily infirmity, or imprisonment, then to attend; and also the power of obtaining evidence from places not within the State.

Section 25. At any time pending an action for debt or damages, the defendant may bring into court a sum of money for discharging the same, together with the costs then accrued, and the plaintiff not accepting the same, if upon the final decision of the cause, he shall not recover a greater sum than so paid into court for him, he shall not recover any costs accruing after such payment, except where the plaintiff is an executor or administrator.

Section 26. By the death of any party, no suit in chancery or at law, where the cause of action survives, shall abate, but, until the General Assembly shall otherwise provide, suggestion of such death being entered of record, the executor or administrator of a deceased petitioner or plaintiff may prosecute the said suit; and if a respondent or defendant dies, the executor or administrator being duly served with a scire facias thirty days before the return thereof shall be considered as a party to the suit, in the same manner as if he had voluntarily made himself a party; and in any of those cases, the court shall pass a decree, or render judgment for or against executors or administrators, as to right appertains. But where an executor or administrator of a deceased respondent or defendant becomes a party, the court upon motion shall grant such a continuance of the cause as to the judges shall appear proper.

Section 27. Whenever a person, not being an executor or administrator, appeals from a decree of the Chancellor, or applies for a writ of error, such appeal or writ shall be no stay of proceeding in chancery, or the court to which the writ issues, unless the appellant or plaintiff in error shall give sufficient security, to be approved respectively by the Chancellor, or by a judge of the court from which the writ issues, that the appellant or plaintiff in error shall prosecute respectively his appeal or writ to effect, and pay the condemnation money and all costs, or otherwise abide the decree in appeal or the judgment in error, if he fails to make his plea good.

Section 28. No writ of error shall be brought upon any judgment heretofore confessed, entered or rendered, or upon any judgment hereafter to be confessed, entered or rendered, but within five years after the confessing, entering or rendering thereof; unless the person entitled to such writ be an infant, feme covert, non compos mentis, or a prisoner, and then within five years exclusive of the time of such disability.

Section 29. The Prothonotary of the Superior Court may issue process, take recognizances of bail and enter judgments, according to law and the practice of the court. No judgment in one county shall bind lands or tenements in another, until a testatum fieri facias being issued, shall be entered of record in the office of the Prothonotary of the county wherein the lands or tenements are situate.

Section 30. The General Assembly may by law give to any inferior courts by it established or to be established, or to one or more justices

of the peace, jurisdiction of the criminal matters following, that is to say: assaults and batteries, keeping without license a public house of entertainment, tavern, inn, ale house, ordinary or victualing house, retailing or selling without license, or on Sunday, or to minors, wine, rum, brandy, gin, whiskey, or spirituous or mixed liquors, contrary to law, carrying concealed a deadly weapon, disturbing meetings held for the purpose of religious worship, nuisances, and such other misdemeanors as the General Assembly may from time to time, with the concurrence of two-thirds of all the members elected to each House prescribe.

The General Assembly may by law regulate this jurisdiction, and provide that the proceedings shall be with or without indictment by grand jury, or trial by petit jury, and may grant or deny the privilege of appeal to the Court of General Sessions; provided, however, that there shall be an appeal to the Court of General Sessions in all cases in which the sentence shall be imprisonment exceeding one month, or a fine exceeding one hundred dollars.

SECTION 31. There shall be appointed, as hereinafter provided, such number of persons to the office of Justice of the Peace as shall be directed by law, who shall be commissioned for four years.

SECTION 32. Justices of the Peace and the judges of such courts as the General Assembly may establish pursuant to the provisions of Section 1 or Section 30 of this Article shall be appointed by the Governor, by and with the consent of a majority of all the members elected to the Senate, for such terms as shall be fixed by this Constitution or by law.

SECTION 33. The Registers of Wills of the several counties shall respectively hold the Register's Court in each county. Upon the litigation of a cause the depositions of the witnesses examined shall be taken at large in writing and make part of the proceedings in the cause. This court may issue process throughout the State. Appeals may be taken from a Register's Court to the Superior Court, whose decision shall be final. In cases where a Register of Wills is interested in questions concerning the probate of wills, the granting of letters of administration or executors' or administrators' accounts, the cognizance thereof shall belong to the Orphans' Court, with an appeal to the Superior Court, whose decision shall be final.

SECTION 34. An executor or administrator shall file every account with the Register of Wills for the county, who shall, as soon as conveniently may be, carefully examine the particulars with the proofs thereof, in the presence of such executor or administrator, and shall adjust and settle the same according to the right of the matter and the law of the land; which account so settled shall remain in his office for inspection; and the executor, or administrator, shall within three months after such settlement give notice in writing to all persons entitled to shares of the estate, or to their guardians, respectively, if residing within the State, that the account is lodged in the said office for inspection.

Exceptions may be made by persons concerned to both sides of every such account, either denying the justice of the allowances made to the accountant or alleging further charges against him; and the exceptions shall be heard in the Orphans' Court for the county; and thereupon the account shall be adjusted and settled according to the right of the matter and law of the land.

SECTION 35. The style in all process and public acts shall be the State of Delaware. Prosecutions shall be carried on in the name of the State.

ARTICLE V

ELECTIONS

SECTION 1. The general election shall be held biennially on the Tuesday next after the first Monday in the month of November, and shall be by ballot; but the General Assembly may by law prescribe the means, methods and instruments of voting so as best to secure secrecy and the independence of the voter, preserve the freedom and purity of elections and prevent fraud, corruption and intimidation thereat.

SECTION 2. Every male citizen of this State of the age of twenty-one years who shall have been a resident thereof one year next preceding an election, and for the last three months a resident of the county, and for the last thirty days a resident of the hundred or election district in which he may offer to vote, and in which he shall have been duly registered as hereinafter provided for, shall be entitled to vote at such election in the hundred or election district of which he shall at the time be a resident, and in which he shall be registered, for all officers that now are or hereafter may be elected by the people and upon all questions which may be submitted to the vote of the people; provided, however, that no person who shall attain the age of twenty-one years after the first day of January, in the year of our Lord, nineteen hundred, or after that date shall become a citizen of the United States, shall have the right to vote unless he shall be able to read this Constitution in the English language and write his name; but these requirements shall not apply to any person who by reason of physical disability shall be unable to comply therewith; and provided also, that no person in the military, naval, or marine service of the United States shall be considered as acquiring a residence in this State, by being stationed in any garrison, barrack, or military or naval place or station within this State; and no idiot or insane person, pauper, or person convicted of a crime deemed by law felony, or incapacitated under the provisions of this Constitution from voting, shall enjoy the right of an elector; and the General Assembly may impose the forfeiture of the right of suffrage as a punishment for crime.

SECTION 3. No person who shall receive or accept, or offer to receive or accept, or shall pay, transfer, or deliver, or offer or promise to pay, transfer or deliver, or shall contribute, or offer or promise to contribute to another, to be paid or used, any money or other valuable thing as a compensation, inducement or reward for the registering or obtaining from registering of any one qualified to register, or for the giving or withholding, or in any manner influencing the giving or withholding, a vote at any general or special or municipal election in this State, shall vote at such election; and upon challenge for any of said causes the person so challenged before the officers authorized for that purpose shall receive his vote, shall swear or affirm before such officers that he has not received or accepted, or offered to receive or accept, or paid, transferred or delivered, or offered or promised to pay, transfer or deliver, or contributed, or offered or promised to con-

tribute to another, to be paid or used, any money or other valuable thing as a compensation, inducement or reward for the registering or abstaining from registering of any one qualified to register, or for the giving or withholding, or in any manner influencing the giving or withholding, a vote at such election.

Such oath or affirmation shall be conclusive evidence to the election officers of the truth of such oath or affirmation; but if any such oath or affirmation shall be false, the person making the same shall be guilty of perjury, and no conviction thereof shall bar any prosecution under Section 8 of this Article.

SECTION. 4. The General Assembly shall provide by law for a uniform biennial registration of the names of all the voters in this State who possess the qualifications prescribed in this Article, which registration shall be conclusive evidence to the election officers of the right of every person so registered to vote at the general election next thereafter, who is not disqualified under the provision of Section 3 of this Article; but no person shall vote at such election unless his name appears in the list of registered voters.

Such registration shall be commenced not more than one hundred and twenty days nor less than sixty days before and be completed not more than twenty nor less than ten days before such election. Application for registration may be made on at least five days during the said period; provided, however, that such registration may be corrected as hereinafter provided, at any time prior to the day of holding the election.

Voters shall be registered upon personal application only; and each voter shall, at the time of his registration, pay a registration fee of one dollar, for the use of the county where such registration fee is paid.

From the decision of the registration officers granting or refusing registration, or striking or refusing to strike a name or names from the registration list, any person interested, or any registration officer, may appeal to the resident Associate Judge of the county, or in case of his disability or absence from the county, to any judge entitled to sit in the Supreme Court, whose determination shall be final; and he shall have power to order any name improperly omitted from the said registry to be placed thereon, and any name improperly appearing on the said registry to be stricken therefrom, and any name appearing on the said registry, in any manner incorrect, to be corrected, and to make and enforce all necessary orders in the premises for the correction of the said registry. Registration shall be required only for general biennial elections at which Representatives to the General Assembly shall be chosen, unless the General Assembly shall otherwise provide by law.

The existing laws in reference to the registration of voters, so far as consistent with the provisions of this Article, shall continue in force until the General Assembly shall otherwise provide.

SECTION 5. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest, during their attendance at elections, and in going to and returning from them.

SECTION 6. The presiding election officer of each hundred or election district, on the day next after the general election, shall deliver one of the certificates of the election, made and certified as required by law, together with the ballot box or ballot boxes, containing the bal-

lots, and other papers required by law to be placed therein, to the Prothonotary of the Superior Court of the county, who shall at twelve o'clock noon on the second day after the election present the same to the said court, and the election officer or officers having charge of any other certificate or certificates of the election shall at the same time present the same to the said court, and the said court shall at the same time convene for the performance of the duties hereby imposed upon it; and thereupon the said court, with the aid of such of its officers and such sworn assistants as it shall appoint, shall publicly ascertain the state of the election throughout the county, by calculating the aggregate amount of all the votes for each office that shall be given in all the hundreds and election districts of the county for every person voted for for such office.

In case the certificates of election of any hundred or election district shall not be produced, or in case the certificates produced do not agree, or in case of complaint under oath of fraud or mistake in any such certificate, or in case fraud or mistake is apparent on the face of any such certificate, the court shall have power to issue summary process against the election officers or any other persons to bring them forthwith into court with the election papers in their possession or control, and to open the ballot boxes and take therefrom any paper contained therein, and to make a record of the ballots contained therein, and to correct any fraud or mistake in any certificate or paper relating to such election.

The said court shall have all other the jurisdiction and powers now vested by law in the boards of canvass, and such other powers as shall be provided by law.

After the state of the election shall have been ascertained as aforesaid, the said court shall make certificates thereof, under the seal of said court in the form required by law, and transmit, deliver and lodge the same as required by this Constitution or by law, and deliver the ballot boxes to the sheriff of the county, to be by him kept and delivered as required by law.

No act or determination of the court in the discharge of the duties imposed upon it by this section shall be conclusive in the trial of any contested election.

For the purposes of this section the Superior Court shall consist in New Castle County of the Chief Justice and the resident Associate Judge; in Kent County of the Chancellor and the resident Associate Judge; and in Sussex County of the resident Associate Judge and the remaining Associate Judge.

Two shall constitute a quorum. The Governor shall have power to commission a judge for the purpose of constituting a quorum when by reason of legal exception to the Chancellor or any judge, or for any other cause, a quorum could not otherwise be had.

Section 7. Every person who either in or out of the State shall receive or accept, or offer to receive or accept, or shall pay, transfer or deliver, or offer or promise to pay, transfer or deliver, or shall contribute, or offer or promise to contribute, to another to be paid or used, any money or other valuable thing as a compensation, inducement or reward for the giving or withholding, or in any manner influencing the giving or withholding, a vote at any general, special, or municipal election in this State, or at any primary election, convention or meeting held for the purpose of nominating any candidate

or candidates to be voted for at such general, special or municipal election; or who either in or out of the State shall make or become directly or indirectly a party to any bet or wager depending upon the result of any such general, special, municipal or primary election or convention or meeting, or upon a vote thereat by any person; or who either in or out of the State shall, by the use or promise of money or other valuable thing, or otherwise, cause or attempt to cause any officer of election or registration officer to violate his official duty; or who either in or out of the State shall by the use or promise of money or other valuable thing influence or attempt to influence any person to be registered or abstain from being registered; or who, being an officer of election or registration officer, shall knowingly and wilfully violate his official duty; or who shall by force, threat, menace or intimidation, prevent or hinder, or attempt to prevent or hinder, any person qualified for registration from being registered or any person qualified to vote from voting according to his choice at any such general, special or municipal election, shall be deemed guilty of a misdemeanor, and shall be fined not less than one hundred dollars nor more than five thousand dollars, or shall be imprisoned for a term not less than one month nor more than three years, or shall suffer both fine and imprisonment within said limits, at the discretion of the court; and, if a male, shall further for a term of ten years next following his sentence be incapable of voting at any such general, special, municipal or primary election or convention or meeting; but the penalty of disfranchisement shall not apply to any person making or being a party to any bet or wager, depending upon the result of any such general, special, municipal or primary election or convention or meeting. Every person charged with the commission while out of the State of any of the offences enumerated in this section, and by this section made punishable, whether committed in or out of the State, may be prosecuted under Section 8 of this Article in any county in which he shall be arrested on such charge. No person, other than the accused, shall, in the prosecution for any offence mentioned in this section, be permitted to withhold his testimony on the ground that it may criminate himself or subject him to public infamy; but such testimony shall not afterwards be used against him in any judicial proceeding, except for perjury in giving such testimony.

Section 8. Every prosecution for any of the offenses mentioned in Section 7 of this Article shall be on information filed by the Attorney General, after examination and commitment or holding to bail by a judge or Justice of the Peace, and the cause shall be heard, tried and determined by the court without the intervention of either a grand jury or petit jury. The accused, if adjudged guilty of the offense charged against him, shall have the right at any time within the space of three calendar months next after sentence is pronounced to an appeal to the Supreme Court. The court below, or any judge thereof, in term time or vacation, shall upon application by the accused allow such appeal; but such appeal shall not operate as a supersedeas unless the appellant shall at the time of the allowance thereof give an appeal bond to the State of Delaware in such amount and with such surety as shall be approved by such court or judge. On such appeal the Supreme Court shall, with all convenient speed, review the evidence adduced in the cause in the court below, as well

as the other proceedings therein; and the law applicable thereto, and give final judgment accordingly, either affirming or reversing the judgment below. If the appellant shall fail to prosecute his appeal pursuant to the rules and practice hereinafter provided for, the Supreme Court shall affirm the judgment of the court below. Where the sentence in the court below includes a term of imprisonment and an appeal bond is given and approved in manner aforesaid, the Supreme Court, if it affirm the judgment below, shall sentence the appellant to a term of imprisonment equal to that imposed by the court below, after deducting therefrom a period equal to the time of imprisonment, if any, already suffered by him under the sentence of the court below. The surety or sureties in any appeal bond given under the provisions of this section shall have the right at any time after its approval and until final judgment shall be rendered by the Supreme Court, and, in case the judgment of the court below shall be affirmed, until the expiration of the space of thirty days next following such affirmance, to take, wherever found, and render the appellant to the sheriff of the county in which he was sentenced; and a certified copy of the appeal bond shall be the sufficient warrant for such surety or sureties for taking and rendering. If the Supreme Court shall reverse any judgment of the court below imposing a fine, and if the accused shall have fully paid such fine and the costs of prosecution, the amount thereof shall be refunded to the appellant through a warrant drawn by the court below on the treasurer of the county in which the accused was sentenced. All the judges entitled to sit in the Supreme Court shall, as soon as conveniently may be, meet at the usual place of sitting of said court, and they, or a majority of them, shall adopt rules prescribing the forms and conditions of appeal bonds to be used under the provisions of this section, and the manner of certifying copies thereof, providing for the printing or reduction to writing of all oral evidence in the cause in the court below and of the opinion of said court, for the certification of the same when so printed or reduced to writing, and of copies thereof; for the copying and certification of all documentary or other written or printed evidence in the cause in the court below and of the record therein; for the transmission to the Supreme Court of such certified copies of such record, and of all the evidence adduced in the court below and of the opinion of said court for the transmission to the court below of a certified copy of the final judgment of the Supreme Court and of any additional sentence pronounced by said court, for the discharge of sureties in appeal bonds, and for the framing, issuance, service and enforcement of all process and rules necessary to give full effect to the provisions of this section; and regulating generally the practice and procedure of the Supreme Court and the court below in cases of appeal under this section. The said judges, or a majority of them, met as aforesaid, may also provide that when complaint shall be made in due form, prescribed by them, to any judge entitled to sit in the Supreme Court, that any offense mentioned in Section 7 of this Article has been committed in the county in which such judge shall reside, or out of the State, such judge shall have power to cause the person charged with such offense to be arrested within any county of this State and brought before him, and to bind him with sufficient surety, or, for want of bail, commit him for his appearance and answer at the next term of the Court of General Sessions in such man-

ner and under and pursuant to such rules and regulations as the said judges, or a majority of them, shall prescribe. From time to time hereafter, whenever a majority of all the judges entitled to sit in the Supreme Court shall so request, all of the judges so entitled shall, as soon as conveniently may be, meet at the usual place of sitting of said court; and they, or a majority of them, shall have power to revise, amend, add to or annul, any rule or rules theretofore adopted touching forms, practice or procedure in cases of appeal under this section, or arrest and binding or commitment for appearance and answer, in such manner and to such extent as in their judgment shall best serve to effectuate the purposes hereof. No person shall be adjudged guilty of an offence mentioned in Section 7 of this Article without the concurrence of all of the judges trying the case; and upon appeal no judgment of the court below shall be affirmed without the concurrence of all of the judges of the Supreme Court sitting in the case, and their failure to concur as aforesaid shall operate as a reversal of the judgment of the court below; provided, however, that such concurrence of the judges sitting in the Supreme Court shall not be necessary for the affirmance of the judgment of the court below where the appellant shall fail to prosecute his appeal pursuant to the rules and practice herein provided for.

Section 9. The enumeration of the offenses mentioned in Section 7 of this Article shall not preclude the General Assembly from defining and providing for the punishment of other offenses against the freedom and purity of the ballot, or touching the conduct, returns or ascertainment of the result of general, special or municipal elections, or of primary elections, conventions or meetings held for the nomination of candidates to be voted for at general, special or municipal elections. No prosecution under any act of the General Assembly passed pursuant to this section shall be subject to the provisions of Section 8 of this Article.

Article VI

IMPEACHMENT AND TREASON

Section 1. The House of Representatives shall have the sole power of impeaching; but two-thirds of all the members must concur in an impeachment. All impeachments shall be tried by the Senate, and when sitting for that purpose, the Senators shall be upon oath or affirmation to do justice according to the evidence. No person shall be convicted without the concurrence of two-thirds of all the Senators.

On the trial of an impeachment against the Governor or Lieutenant-Governor, the Chief Justice, or, in case of his absence or disability, the Chancellor shall preside; and on the trial of all other impeachments the President of the Senate shall preside.

Section 2. The Governor and all other civil officers under this State shall be liable to impeachment for treason, bribery, or any high crime or misdemeanor in office. Judgment in such cases shall not extend further than to removal from office, and disqualification to hold any office of honor, trust, or profit, under this State; but the party convicted shall, nevertheless, be subject to indictment, trial, judgment and punishment according to law.

SECTION 3. Treason against this State shall consist only in levying war against it, or in adhering to the enemies of the Government, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

ARTICLE VII

PARDONS

SECTION 1. The Governor shall have power to remit fines and forfeitures and to grant reprieves, commutations of sentence and pardons, except in cases of impeachment; but no pardon, or reprieve for more than six months, shall be granted, nor sentence commuted, except upon the recommendation in writing of a majority of the Board of Pardons after full hearing; and such recommendation, with the reasons therefor at length, shall be filed and recorded in the office of the Secretary of State, who shall forthwith notify the Governor thereof.

He shall fully set forth in writing the grounds of all reprieves, pardons and remissions, to be entered in the register of his official acts and laid before the General Assembly at its next session.

SECTION 2. The Board of Pardons shall be composed of the Chancellor, Lieutenant-Governor, Secretary of State, State Treasurer and Auditor of Accounts.

SECTION 3. The said board may require information from the Attorney-General upon any subject relating to the duties of said board.

ARTICLE VIII

REVENUE AND TAXATION

SECTION 1. All taxes shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws, but the General Assembly may by general laws exempt from taxation such property as in the opinion of the General Assembly will best promote the public welfare.

SECTION 2. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose alterations as on other bills; and no bill from the operation of which, when passed into a law, revenue may incidentally arise shall be accounted a bill for raising revenue; nor shall any matter or clause whatever not immediately relating to and necessary for raising revenue be in any manner blended with or annexed to a bill for raising revenue.

SECTION 3. No money shall be borrowed or debt created by or on behalf of the State but pursuant to an Act of the General Assembly, passed with the concurrence of three-fourths of all the members elected to each House, except to supply casual deficiencies of revenue, repel invasion, suppress insurrection, defend the State in war, or pay existing debts; and any law authorizing the borrowing of money by or on behalf of the State shall specify the purpose for which the money is to be borrowed, and the money so borrowed shall be used exclusively for such purpose; but should the money so borrowed or

any part thereof be left after the abandonment of such purpose or the accomplishment thereof, such money, or the surplus thereof, may be disposed of according to law.

SECTION 4. No appropriation of the public money shall be made to, nor the bonds of this State be issued or loaned to any county, municipality or corporation, nor shall the credit of the State, by the guarantee or the endorsement of the bonds of other undertakings of any county, municipality or corporation, be pledged otherwise than pursuant to an Act of the General Assembly, passed with the concurrence of three-fourths of all the members elected to each House.

SECTION 5. The General Assembly shall provide for levying and collecting a capitation tax from every male citizen of the State of the age of twenty-one years or upwards; but such tax to be collected in any county shall be uniform throughout that county, and such capitation tax shall be used exclusively in the county in which it is collected.

SECTION 6. No money shall be drawn from the treasury but pursuant to an appropriation made by Act of the General Assembly; provided, however, that the compensation of the members of the General Assembly and all expenses connected with the session thereof may be paid out of the treasury pursuant to resolution in that behalf; a regular account of the receipts and expenditures of all public money shall be published annually.

SECTION 7. In all assessments of the value of real estate for taxation, the value of the land and the value of the buildings and improvements thereon shall be included. And in all assessments of the rental value of real estate for taxation, the rental value of the land and the rental value of the buildings and the improvements thereon shall be included. The foregoing provisions of this section shall apply to all assessments of the value of real estate or of the rental value thereof for taxation for State, county, hundred, school, municipal or other public purposes.

SECTION 8. No county, city, town or other municipality shall lend its credit or appropriate money to, or assume the debt of, or become a shareholder or joint owner in or with any private corporation or any person or company whatever.

ARTICLE IX

CORPORATIONS

SECTION 1. No corporation shall hereafter be created, amended, renewed or revived by special act, but only by or under general law, nor shall any existing corporate charter be amended, renewed or revived by special act, but only by or under general law; but the foregoing provisions shall not apply to municipal corporations, banks or corporations for charitable, penal, reformatory, or educational purposes, sustained in whole or in part by the State. The General Assembly shall, by general law, provide for the revocation or forfeiture of the charters of all corporations for the abuse, misuse, or non-user of their corporate powers, privileges or franchises. Any proceeding for such revocation or forfeiture, shall be taken by the Attorney-General, as may be provided by law. No general incorporation law, nor any special act of incorporation, shall be enacted without the concurrence

of two-thirds of all the members elected to each House of the General Assembly.

SECTION 2. No corporation in existence at the adoption of this Constitution shall have its charter amended or renewed without first filing, under the corporate seal of said corporation, and duly attested, in the office of the Secretary of State, an acceptance of the provisions of this Constitution.

SECTION 3. No corporation shall issue stock, except for money paid, labor done or personal property, or real estate or leases thereof actually acquired by such corporation.

SECTION 4. The rights, privileges, immunities and estates of religious societies and corporate bodies, except as herein otherwise provided, shall remain as if the Constitution of this State had not been altered.

SECTION 5. No foreign corporation shall do any business in this State through or by branch offices, agents or representatives located in this State, without having an authorized agent or agents in the State upon whom legal process may be served.

SECTION 6. Shares of the capital stock of corporations created under the laws of this State, when owned by persons or corporations without this State, shall not be subject to taxation by any law now existing or hereafter to be made.

ARTICLE X

EDUCATION

SECTION 1. The General Assembly shall provide for the establishment and maintenance of a general and efficient system of free public schools, and may require by law that every child, not physically or mentally disabled, shall attend the public school, unless educated by other means.

SECTION 2. In addition to the income of the investments of the Public School Fund, the General Assembly shall make provision for the annual payment of not less than one hundred thousand dollars for the benefit of the free public schools which, with the income of the investments of the Public School Fund, shall be equitably apportioned among the school districts of the State as the General Assembly shall provide; and the money so apportioned shall be used exclusively for the payment of teachers' salaries and for furnishing free text books; provided, however, that in such apportionment, no distinction shall be made on account of race or color, and separate schools for white and colored children shall be maintained. All other expenses connected with the maintenance of free public schools, and all expenses connected with the erection or repair of free public school buildings shall be defrayed in such manner as shall be provided by law.

SECTION 3. No portion of any fund now existing, or which may hereafter be appropriated, or raised by tax, for educational purposes, shall be appropriated to, or used by, or in aid of any sectarian, church or denominational school; provided, that all real or personal property used for school purposes, where the tuition is free, shall be exempt from taxation and assessment for public purposes.

SECTION 4. No part of the principal or income of the Public School Fund, now or hereafter existing, shall be used for any other purpose than the support of free public schools.

ARTICLE XI

AGRICULTURE

SECTION 1. There shall be a department established and maintained, known as the State Board of Agriculture.

SECTION 2. The said board shall be composed of three Commissioners of Agriculture, one of whom shall reside in each county in the State. Any two of them shall constitute a quorum for the transaction of business.

SECTION 3. The said Commissioners of Agriculture shall be appointed by the Governor, by and with the consent of a majority of all the members elected to the Senate, one for the term of one year, one for the term of two years, and one for the term of three years; and thereafter all appointments of Commissioners of Agriculture shall be made as aforesaid for the term of three years, and they shall hold office until their successors are duly qualified: provided, that any vacancy occurring in the office of Commissioner of Agriculture before the expiration of a term shall be filled by appointment as aforesaid for the remainder of the term; and provided further, that in case such vacancy shall occur when the Senate is not in session, such vacancy may be filled by the Governor without confirmation by the Senate until the end of the next session of the Senate.

SECTION 4. The said board shall have power to abate and prevent, by such means as the General Assembly shall prescribe, all contagious and infectious diseases of fruit trees, plants, vegetables, cereals, horses, cattle and other farm animals.

SECTION 5. The said Commissioners may devise such plans for securing immigration to this State of industrious and useful settlers as they may deem expedient, and such plans may be executed as prescribed by the General Assembly.

SECTION 6. The General Assembly shall provide by law for the compensation of the members of said board.

SECTION 7. The Board of Agriculture hereby established shall continue for eight years from the date of the qualification of the first member thereof, after which it may be abolished by the General Assembly.

ARTICLE XII

HEALTH

The General Assembly shall provide for the establishment and maintenance of a State Board of Health, which shall have supervision of all matters relating to public health, with such powers and duties as may be prescribed by law; and also for the establishment and maintenance of such local boards of health as may be necessary, to be under the supervision of the State Board, to such extent and with such powers as may be prescribed by law.

Article XIII

LOCAL OPTION

Section 1. The General Assembly may from time to time provide by law for the submission to the vote of the qualified electors of the several districts of the State, or any of them, mentioned in Section 2 of this Article, the question whether the manufacture and sale of intoxicating liquors shall be licensed or prohibited within the limits thereof; and in every district in which there is a majority against license, no person, firm or corporation shall thereafter manufacture or sell spirituous, vinous or malt liquors, except for medicinal or sacramental purposes, within said district, until at a subsequent submission of such question a majority of votes shall be cast in said district for license. Whenever a majority of all the members elected to each House of the General Assembly by the qualified electors in any district named in Section 2 of this Article shall request the submission of the question of license or no license to a vote of the qualified electors in said district, the General Assembly shall provide for the submission of such question to the qualified electors in such district at the next general election thereafter.

Section 2. Under the provisions of this Article, Sussex County shall comprise one district, Kent County one district, the City of Wilmington, as its corporate limits now are or may hereafter be extended, one district, and the remaining part of New Castle County one district.

Section 3. The General Assembly shall provide necessary laws to carry out and enforce the provisions of this Article enact laws governing the manufacture and sale of intoxicating liquors under the limitations of this Article, and provide such penalties as may be neccessary to enforce the same.

Article XIV

OATH OF OFFICE

Members of the General Assembly and all public officers executive and judicial, except such inferior officers as shall be by law exempted, shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of Deleware, and that I will faithfully discharge the duties of the office of ————————, according to the best of my ability"; and all such officers, except as aforesaid, who shall have been chosen at any election, shall, before they enter upon the duties of their respective offices, take, and subscribe the oath or affirmation above prescribed, together with the following addition thereto, as part thereof:

"And I do further solemnly swear (or affirm) that I have not directly or indirectly paid, offered or promised to pay, contributed, or offered or promised to contribute, any money or other valuable thing as a consideration or reward for the giving or withholding a vote at the election at which I was elected to said office."

No other oath, declaration or test shall be required as a qualification for any office of public trust.

Article XV

MISCELLANEOUS

Section 1. The Chancellor, Judges and Attorney-General shall be conservators of the peace throughout the State; and the Sheriffs and Coroners shall be conservators of the peace within the counties respectively in which they reside.

Section 2. No public officer shall receive any fees without giving to the person paying the same a receipt therefor, if required, therein specifying every item and charge.

Section 3. No costs shall be paid by a person accused, on a bill being returned ignoramus, nor on acquittal.

Section 4. No law shall extend the term of any public officer or diminish his salary or emoluments after his election or appointment.

Section 5. All public officers shall hold their respective offices until their successors shall be duly qualified, except in cases herein otherwise provided.

Section 6. All public officers shall hold their offices on condition that they behave themselves well. The Governor shall remove from office any public officer convicted of misbehavior in office or of any infamous crime.

Section 7. The matters within Section 30 of Article IV and Sections 7 and 8 of Article V are excepted from the provision of the Constitution that "No person shall for any indictable offense be proceeded against criminally by information," and also from the provisions of the Constitution concerning trial by jury.

Section 8. All stationery, printing, paper and fuel used in the legislative and other departments of government shall be furnished, and the printing, binding and distributing of the laws, journals, official reports, and all other printing and binding, and the repairing and furnishing the halls and rooms used for the meetings of the General Assembly and its committees, shall be performed under contract to be given to the lowest responsible bidder below such maximum price and under such regulations as shall be prescribed by law. Such bids shall be opened in the presence of the persons making the bids or their representatives.

No member or officer of any department of the government shall be in any way interested in any such contract when awarded to or by any such member, officer or department.

Section 9. This Constitution shall be prefixed to every codification of the Laws of this State.

Article XVI

AMENDMENTS AND CONVENTIONS

Section 1. Any amendment or amendments to the Constitution may be proposed in the Senate or House of Representatives; and if the same shall be agreed to by two-thirds of all the members elected to each House, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and the Secretary of State shall cause such proposed amendment or amendments to be published three months before the next general election

in at least three newspapers in each county in which such newspapers shall be published; and if in the General Assembly next after the said election such proposed amendment or amendments shall upon a yea and nay vote be agreed to by two-thirds of all the members elected to each House, the same shall thereupon become part of the Constitution.

Section 2. The General Assembly by a two-thirds vote of all the members elected to each House may from time to time provide for the submission to the qualified electors of the State at the general election next thereafter the question, "Shall there be a Convention to revise the Constitution and amend the same?"; and upon such submission, if a majority of those voting on said question shall decide in favor of a Convention for such purpose, the General Assembly at its next session shall provide for the election of delegates to such Convention at the next general election. Such Convention shall be composed of forty-one delegates, one of whom shall be chosen from each Representative District by the qualified electors thereof, and two of whom shall be chosen from New Castle County, two from Kent County and two from Sussex County by the qualified electors thereof respectively. The delegates so chosen shall convene at the Capital of the State on the first Tuesday in September next after their election. Every delegate shall receive for his services such compensation as shall be provided by law. A majority of the Convention shall constitute a quorum for the transaction of business. The Convention shall have power to appoint such officers, employes and assistants as it may deem necessary, and fix their compensation, and provide for the printing of its documents, journals, debates and proceedings. The Convention shall determine the rules of its proceedings, and be the judge of the elections, returns and qualification of its members. Whenever there shall be a vacancy in the office of delegate from any district or county by reason of failure to elect, ineligibility, death, resignation or otherwise, a writ of election to fill such vacancy shall be issued by the Governor, and such vacancy shall be filled by the qualified electors of such district and county.

Section 3. The General Assembly shall provide for receiving, tallying and counting the votes for or against a Convention, and for returning to the General Assembly at its next session the State of such vote; and shall also enact all provisions necessary for giving effect to this Article.

Section 4. No bill or resolution passed by the General Assembly under or pursuant to the provisions of this Article, shall require for its validity the approval of the Governor, and the same shall be exempt from the provisions of Section 18 of Article III, of this Constitution.

Section 5. In voting at any general election, upon the question, "Shall there be a Convention to revise the Constitution and amend the same?", the ballots shall be separate from those cast for any person voted for at such election, and shall be kept distinct and apart from all other ballots.

SCHEDULE

That no inconvenience may arise from the amendments of the Constitution of this State, and in order to carry the same into complete operation, it is hereby declared and ordained as follows:

SECTION 1. The President of this Convention, immediately on its adjournment, shall deliver the enrolled copy of this amended Constitution and Schedule to the Secretary of State, who shall file the same in his office, and the Secretary of this Convention shall cause the same to be published three times in two newspapers in each county of the State.

SECTION 2. This amended Constitution shall take effect on the tenth day of June in the year one thousand eight hundred and ninety-seven.

SECTION 3. The offices of the present Senators and Representatives shall not be vacated or otherwise affected by this amended Constitution, except that the Senators whose terms do not expire on the day of the next general election shall thereafter represent the districts in which they now reside until the end of the terms for which they were elected.

At the general election to be held in the year one thousand eight hundred and ninety-eight, there shall be elected from each of the even numbered Senatorial Districts in the State, except district number two in New Castle County, District number four in Kent County, and District number two in Sussex County, a Senator for the term of two years, and from each of the odd numbered Senatorial Districts in the State a Senator for the term of four years.

And thereafter, as the said terms shall from time to time expire, a Senator shall be elected from each of the said Senatorial Districts for the full term of four years.

At the general election to be held in the year one thousand eight hundred and ninety-eight, there shall be elected in each Representative District in the State one Representative for the term of two years.

SECTION 4. The terms of Senators and Representatives shall begin on the day next after their election.

SECTION 5. The first general election under this amended Constitution shall be held on the Tuesday next after the first Monday in the month of November in the year one thousand eight hundred and ninety-eight.

SECTION 6. The term of office of the present Governor shall not be vacated, or in any wise affected by this amended Constitution.

SECTION 7. Unless otherwise provided by this amended Constitution or Schedule, all persons elected or appointed before this amended Constitution shall take effect, to State or county offices made elective by this amended Constitution, whose terms will expire before the first Tuesday in January in the year one thousand eight hundred and ninety-nine, shall hold their respective offices until the said last mentioned day; and all persons elected or appointed as aforesaid to such offices, whose terms will expire between the said first Tuesday in January in the year one thousand eight hundred and ninety-nine and the first Tuesday in January in the year one thousand nine hundred and one, shall hold their respective offices until the said last mentioned day; and all persons elected or appointed as aforesaid to such

offices, whose terms will expire between the said first Tuesday in January in the year one thousand nine hundred and one and the first Tuesday in January in the year one thousand nine hundred and three, shall hold their respective offices until the said last mentioned day; and the successors of such persons shall be elected at the general election next before the expiration of the terms as hereby extended; provided, however, that the successors of the present Auditor of Accounts, State Treasurer and Insurance Commissioner shall be elected at the general election next preceding the expiration of their several terms of office, and the persons so elected shall enter upon the duties of their respective offices on the first Tuesday in January following their election. The officers whose terms of office are extended by this section shall renew their official obligations upon the expiration of their present terms.

SECTION 8. The terms of office of all State and County officers made elective by this amended Constitution shall commence on the first Tuesday in January next after their election, unless otherwise provided in this amended Constitution or Schedule.

SECTION 9. All the courts of justice now existing shall continue with their present jurisdiction, and the Chancellor and judges shall continue in office until the tenth day of June in the year one thousand eight hundred and ninety-seven; upon which day the said courts shall be abolished, and the offices of the said Chancellor and judges shall expire.

All writs of error, and appeals and proceedings which, on the said tenth day of June in the year one thousand eight hundred and ninety-seven shall be depending in the Court of Errors and Appeals, and all the books, records and papers of said court, shall be transferred to the Supreme Court established by this amended Constitution; and the said writs of error, appeals and proceedings shall be proceeded in the said Supreme Court to final judgment, decree or other determination.

All suits, proceedings, and matters which, on the said tenth day of June in the year one thousand eight hundred and ninety-seven, shall be depending in the Superior Court, and all books, records and papers of the said court, shall be transferred to the Superior Court established by this amended Constitution, and the said suits, proceedings and matters shall be proceeded in to final judgment, or determination, in the said Superior Court established by this amended Constitution.

All indictments, proceedings and matters which, on the said tenth day of June in the year one thousand eight hundred and ninety-seven, shall be depending in the Court of General Sessions of the Peace and Jail Delivery, shall be transferred to and proceeded in to final judgment and determination in the Court of General Sessions established by this amended Constitution, or be otherwise disposed of by the Court of General Sessions, and all books, records and papers of said Court of General Sessions of the Peace and Jail Delivery shall be transferred to the said Court of General Sessions.

All indictments, proceedings and matters which, on the said tenth day of June in the year one thousand eight hundred and ninety-seven, shall be depending in the Court of Oyer and Terminer, shall be transferred to and proceeded in to final judgment and determination in the

Court of Oyer and Terminer, established by this amended Constitution, and all books, records and papers of said Court of Oyer and Terminer shall be transferred to said Court of Oyer and Terminer established by this amended Constitution.

All suits, proceedings and matters which, on the said tenth day of June in the year one thousand eight hundred and ninety-seven, shall be depending in the Court of Chancery, or in the Orphans' Court, and all records, books and papers of said courts respectively, shall be transferred to Court of Chancery or Orphans' Court respectively, established by this amended Constitution; and the suits, proceedings and matters, shall be proceeded in to final decree, order or other determination.

SECTION 10. Unless otherwise provided, the Registers' Courts and the jurisdiction of Justice of the Peace shall not be affected by this amended Constitution.

SECTION 11. If the Chancellor, Chief Justice, or any Associate Judge in office at the time this amended Constitution shall take effect shall not be appointed Chancellor, Chief Justice or Associate Judge under this amended Constitution, he shall be entitled to receive the sum of fifteen hundred dollars per annum, payable quarterly, for five years, after the expiration of his office, if he shall so long live.

SECTION 12. The first biennial session of the General Assembly under this amended Constitution shall commence on the first Tuesday in January in the year one thousand eight hundred and ninety-nine.

SECTION 13. The provisions of Section 15 of Article 11 of this amended Constitution limiting the amount of the compensation of the members of the General Assembly and the presiding officers of the respective Houses shall not apply to any adjourned, special or extra session of the General Assembly held prior to the first Tuesday in January in the year one thousand eight hundred and ninety-nine.

SECTION 14. Until the General Assembly shall enact a general incorporation law as provided for in Section 1 of Article IX of this amended Constitution, existing corporations may be renewed for a period not exceeding four years, without change or enlargement of their corporate powers or duties, in the manner lawful before this amended Constitution shall take effect.

SECTION 15. Until the General Assembly shall otherwise provide, guardians' accounts shall be filed with and be adjusted and settled by the Register of Wills for the county, and be subject to exception, hearing, adjustment and settlement in the Orphans' Court for the county as before this amended Constitution took effect.

SECTION 16. Unless otherwise provided by this amended Constitution or Schedule, the terms of persons holding public offices to which they have been elected or appointed at the time this amended Constitution and Schedule shall take effect, shall not be vacated or otherwise affected thereby.

SECTION 17. One or more vacancies in the Board of Pardons shall not invalidate any act of the remaining members of said Board not less than three in number.

SECTION 18. All the laws of this State existing at the time this Constitution shall take effect, and not inconsistent with it, shall remain in force, except so far as they shall be altered by future laws.

SECTION 19. The General Assembly, as soon as conveniently may be

after this Constitution shall take effect, shall enact all laws necessary or proper for carrying out the provisions thereof.

Done in convention, the fourth day of June in the year of our Lord one thousand eight hundred and ninety-seven and of the Independence of the United States of America the one hundred and twenty-first.

In testimony whereof, we have hereunto subscribed our names.

John Biggs, President. Edward G. Bradford, Charles B. Evans, George H. Murray, Martin B. Burris, James B. Gilchrist, William P. Orr, Jr., William A. Cannon, Robert G. Harman, Nathan Pratt, Paris T. Carlisle, Jr., Edward D. Hearne, Charles F. Richards, Wilson T. Cavender, Andrew J. Horsey, Lowder L. Sapp, David S. Clark, John W. Hering, William Saulsbury, J. Wilkins Cooch, Andrew L. Johnson, William T. Smithers, Ezekiel W. Cooper, Woodburn Martin, W. C. Spruance, Robert W. Dasey, Elias N. Moore, Isaac K. Wright, Joshua A. Ellegood.

Attest: Charles R. Jones, Secretary of C. C.

N. B.—John P. Donoho, a member of the Convention from New Castle County, refused to sign.

DISTRICT OF COLUMBIA[a]

ACT FIXING THE SEAT OF GOVERNMENT—1790

[First Congress, Second Session]

An Act for establishing the temporary and permanent seat of the Government of the United States

Section 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That a district of territory, not exceeding ten miles square, to be located as hereafter directed on the river Potomac, at some place between the mouths of the Eastern Branch and Connogochegue, be, and the same is hereby accepted for the permanent seat of the government of the United States. *Provided nevertheless*, That the operation of the laws of the state within such district shall not be affected by this acceptance, until the time fixed for the removal of the government thereto, and until Congress shall otherwise by law provide.

Sec. 2. *And be it further enacted*, That the President of the United States be authorized to appoint, and by supplying vacancies happening from refusals to act or other causes, to keep in appointment as long as may be necessary, three commissioners, who, or any two of whom, shall, under the direction of the President, survey, and by proper metes and bounds define and limit a district of territory, under the limitations above mentioned; and the district so defined, limited and located, shall be deemed the district accepted by this act, for the permanent seat of the government of the United States.

Sec. 3. *And be it* [*further*] *enacted*, That the said commissioners, or any two of them, shall have power to purchase or accept such quantity of land on the eastern side of the said river, within the said district, as the President shall deem proper for the use of the United States, and according to such plans as the President shall approve, the said commissioners, or any two of them, shall, prior to the first Monday in December, in the year one thousand eight hundred, provide suitable buildings for the accommodation of Congress, and of the President, and for the public offices of the government of the United States.

Sec. 4. *And be it* [*further*] *enacted*, That for defraying the expense of such purchases and buildings, the President of the United States be authorized and requested to accept grants of money.

Sec. 5. *And be it* [*further*] *enacted*, That prior to the first Monday in December next, all offices attached to the seat of the government of

---

[a] The District of Columbia was formed out of territory ceded by the States of Virginia and Maryland; the land on the Virginia side of the Potomac was retroceded to that State by the act of Congress of July 9, 1846. Authority was given to the Commissioners by the act of March 3, 1791, to locate the district beyond the limits specified in the act of July 16, 1790.

the United States, shall be removed to, and until the said first Monday in December, in the year one thousand eight hundred, shall remain at the city of Philadelphia, in the state of Pennsylvania, at which place the session of Congress next ensuing the present shall be held.

SEC. 6. *And be it [further] enacted*, That on the said first Monday in December, in the year one thousand eight hundred, the seat of the government of the United States shall, by virtue of this act, be transferred to the district and place aforesaid. And all offices attached to the said seat of government, shall accordingly be removed thereto by their respective holders, and shall, after the said day, cease to be exercised elsewhere; and that the necessary expense of such removal shall be defrayed out of the duties on imposts and tonnage, of which a sufficient sum is hereby appropriated.

Approved, July 16, 1790.

GOVERNMENT OF THE DISTRICT OF COLUMBIA—1801 [a]

[SIXTH CONGRESS, SECOND SESSION]

An Act concerning the District of Columbia

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the laws of the state of Virginia, as they now exist, shall be and continue in force in that part of the District of Columbia, which was ceded by the said state to the United States, and by them accepted for the permanent seat of government; and that the laws of the state of Maryland, as they now exist, shall be and continue in force in that part of the said district, which was ceded by that state to the United States, and by them accepted as aforesaid.

SEC. 2. And be it further enacted, That the said district of Columbia shall be formed into two counties; one county shall contain all that part of said district, which lies on the east side of the river Potomac, together with the islands therein, and shall be called the county of Washington; the other county shall contain all that part of said district, which lies on the west side of said river, and

[a] For other statutes of an organic nature relating to the District of Columbia subsequent to 1801 see an act to amend act of 1801, March 3, 1801; to define jurisdiction of circuit courts in, and to organize militia, May, 3, 1802; to regulate the courts in, April 21, 1806, February 24, 1807, March 3, 1807, to punish crimes in, March 2, 1831; to retrocede County of Alexandria, District of Columbia, to Virginia, July 9, 1846; to abolish slave trade in, September 20, 1850; to create a metropolitan police-district, August 6, 1861; to abolish slavery in, April 16, 1862; to fix qualification of voters in, May 20, 1862; to provide for revising and codifying the laws of the District, May 20, 1862; to provide further regulations respecting freedom of slaves, July 12, 1862; to reorganize the courts in, March 3, 1863; to define powers and duties of levy court, March 3, 1863; to permit grants and devises of real property to religious societies, July 25, 1866; to extend elective franchise in, January 8, 1867; to punish illegal voting, February 5, 1867; to provide a government for, including a governor and a bicameral legislative assembly, February 21, 1871; to provide for vesting the governor's powers in a board of commissioners, June 20, 1874; to levy and collect a tax on land in the District, March 3, 1877; to authorize commissioners to make police regulations, January 26, 1887; to reorganize the militia, March 1, 1889; to establish a court of appeals, February 9, 1893; to establish a code of law in, March 3, 1901; to amend the code of law, June 30, 1902.

shall be called the county of Alexandria; and the said river in its whole course through said district shall be taken and deemed to all intents and purposes to be within both of said counties.

Sec. 3. *Be it further enacted*, That there shall be a court in said district, which shall be called the circuit court of the district of Columbia; and the said court and the judges thereof shall have all the powers by law vested in the circuit courts and the judges of the circuit courts of the United States. Said court shall consist of one chief judge and two assistant judges resident within said district, to hold their respective offices during good behaviour; any two of whom shall constitute a quorum; and each of the said judges shall, before he enter on his office, take the oath or affirmation provided by law to be taken by the judges of the circuit courts of the United States; and said court shall have power to appoint a clerk of the court in each of said counties, who shall take the oath and give a bond with sureties, in the manner directed for clerks of the district courts in the act to establish the judiciary of the United States.

Sec. 4. *Be it further enacted*, That said court shall, annually, hold four sessions in each of said counties, to commence as follows, to wit: for the county of Washington, at the city of Washington, on the fourth Mondays of March, June, September and December; for the county of Alexandria, at Alexandria, on the second Mondays of January, April, July, and the first Monday of October.

Sec. 5. *Be it further enacted*, That said court shall have cognizance of all crimes and offences committed within said district, and of all cases in law and equity between parties, both or either of which shall be resident or be found within said district, and also of all actions or suits of a civil nature at common law or in equity, in which the United States shall be plaintiffs or complainants; and of all seizures on land or water, and all penalties and forfeitures made, arising or accruing under the laws of the United States.

Sec. 6. *Provided, and be it further enacted*, That all local actions shall be commenced in their proper counties, and that no action or suit shall be brought before said court, by any original process against any person, who shall not be an inhabitant of, or found within said district, at the time of serving the writ.

Sec. 7. *Be it further enacted*, That there shall be a marshal for the said district, who shall have the custody of the gaols of said counties, and be accountable for the safe keeping of all prisoners legally committed therein; and he shall be appointed for the same term, shall take the same oath, give a bond with sureties in the same manner, shall have generally, within said district, the same powers, and perform the same duties, as is by law directed and provided in the case of marshals of the United States.

Sec. 8. *Be it further enacted*, That any final judgment, order or decree in said circuit court, wherein the matter in dispute, exclusive of costs, shall exceed the value of one hundred dollars, may be re-examined and reversed or affirmed in the supreme court of the United States, by writ of error or appeal, (a) which shall be prosecuted in the same manner, under the same regulations, and the same proceedings shall be had therein, as is or shall be provided in the case of writs of error on judgments, or appeals upon orders or decrees, rendered in the circuit court of the United States.

Sec. 9. *Be it further enacted*, That there shall be appointed an attorney of the United States for said district, who shall take the oath and perform all the duties required of the district attorneys of the United States; and the said attorney, marshal and clerks, shall be entitled to receive for their respective services, the same fees, perquisites and emoluments, which are by law allowed respectively to the attorney, marshal and clerk of the United States, for the district of Maryland.

Sec. 10. *Be it further enacted*, That the chief judge, to be appointed by virtue of this act, shall receive an annual salary of two thousand dollars, and the two assistant judges, of sixteen hundred dollars each, to be paid quarterly, at the treasury of the United States.(a)

Sec. 11. *Be it further enacted*, That there shall be appointed in and for each of the said counties, such number of discreet persons to be justices of the peace, as the President of the United States shall from time to time think expedient, to continue in office five years; and such justices, having taken an oath for the faithful and impartial discharge of the duties of the office, shall, in all matters, civil and criminal, and in whatever relates to the conservation of the peace, have all the powers vested in, and shall perform all the duties required of, justices of the peace, as individual magistrates, by the laws herein before continued in force in those parts of said district, for which they shall have been respectively appointed; and they shall have cognizance in personal demands to the value of twenty dollars, exclusive of costs; which sum they shall not exceed, any law to the contrary notwithstanding; and they shall be entitled to receive for their services the fees allowed for like services by the laws herein before adopted and continued, in the eastern part of said district.

Sec. 12. *And be it further enacted*, That there shall be appointed in and for each of the said counties, a register of wills, and a judge to be called the judge of the orphans' court, who shall each take an oath for the faithful and impartial discharge of the duties of his office; and shall have all the powers, perform all the duties, and receive the like fees, as are exercised, performed, and received by the registers of wills and judges of the orphans' court, within the state of Maryland; and appeals from the said courts shall be to the circuit court of said district, who shall therein have all the powers of the chancellor of the said state.

Sec. 13. *And be it further enacted*, That in all cases where judgments or decrees have been obtained, or hereafter shall be obtained, on suits now depending in any of the courts of the commonwealth of Virginia, or of the state of Maryland, where the defendant resides or has property within the district of Columbia, it shall be lawful for the plaintiff in such case upon filing an exemplification of the record and proceedings in such suits, with the clerk of the court of the county where the defendant resides, or his property may be found, to sue out writs of execution thereon, returnable to the said court, which shall be proceeded on, in the same manner as if the judgment or decree had originally been obtained in said court.

Sec. 14. *And be it further enacted*, That all actions, suits, process, pleadings, and other proceedings of what nature or kind soever, depending or existing in the courts of Hustings for the towns of

Alexandria and Georgetown, shall be, and hereby are continued over to the circuit courts to be holden by virtue of this act, within the district of Columbia, in manner following; that is to say: all such as shall then be depending and undetermined, before the court of hustings for the town of Alexandria, to the next circuit court hereby directed to be holden in the town of Alexandria; and all such as shall then be depending and undetermined, before the court of hustings for Georgetown, to the next circuit court hereby directed to be holden in the city of Washington: *Provided nevertheless*, that where the personal demand in such cases, exclusive of costs, does not exceed the value of twenty dollars, the justices of the peace within their respective counties, shall have cognizance thereof.

SEC. 15. *And be it further enacted*, That all writs and processes whatsoever, which shall hereafter issue from the courts hereby established within the district, shall be tested in the name of the chief judge of the district of Columbia.

SEC. 16. *And be it further enacted*, That nothing in this act contained shall in any wise alter, impeach or impair the rights, granted by or derived from the acts of incorporation of Alexandria and Georgetown, or of any other body corporate or politic, within the said district, except so far as relates to the judicial powers of the corporations of Georgetown and Alexandria.

Approved, February 27, 1801.

PERMANENT GOVERNMENT FOR DISTRICT OF COLUMBIA—1878

[FORTY-FIFTH CONGRESS, SECOND SESSION]

An Act providing a permanent form of government for the District of Columbia

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all the territory which was ceded by the State of Maryland to the Congress of the United States for the permanent seat of the Government of the United States shall continue to be designated as the District of Columbia. Said District and the property and persons that may be therein shall be subject to the following provisions for the government of the same, and also to any existing laws applicable thereto not hereby repealed or inconsistent with the provisions of this act. The District of Columbia shall remain and continue a municipal corporation, as provided in section two of the Revised Statutes relating to said District, and the Commissioners herein provided for shall be deemed and taken as officers of such corporation; and all laws now in force relating to the District of Columbia not inconsistent with the provisions of this act shall remain in full force and effect.

SEC. 2. That within twenty days after the approval of this act the President of the United States, by and with the advice and consent of the Senate, is hereby authorized to appoint two persons, who, with an officer of the Corps of Engineers of the United States Army, whose lineal rank shall be above that of a captain, shall be Commissioners of the District of Columbia, and who, from and after July first, eighteen hundred and seventy-eight, shall exercise all the powers and authority now vested in the Commissioners of said District, except as

are hereinafter limited or provided, and shall be subject to all restrictions and limitations and duties which are now imposed upon said Commissioners. The Commissioner, who shall be an officer detailed from time to time from the Corps of Engineers by the President for this duty, shall not be required to perform any other, nor shall he receive any other compensation than his regular pay and allowances as an officer of the Army. The two persons appointed from civil life shall, at the time of their appointment, be citizens of the United States, and shall have been actual residents of the District of Columbia for three years next before their appointment, and have, during that period, claimed residence nowhere else, and one of said three Commissioners shall be chosen president of the Board of Commissioners at their first meeting, and annually and whenever a vacancy shall occur thereafter; and said Commissioners shall each of them, before entering upon the discharge of his duties, take an oath or affirmation to support the Constitution of the United States, and to faithfully discharge the duties imposed upon him by law; and said Commissioners appointed from civil life shall each receive for his services a compensation at the rate of five thousand dollars per annum, and shall, before entering upon the duties of the office, each give bond in the sum of fifty thousand dollars, with surety as is required by existing law. The official term of said Commissioners appointed from civil life shall be three years, and until their successors are appointed and qualified; but the first appointment shall be one Commissioner for one year and one for two years, and at the expiration of their respective terms their successors shall be appointed for three years. Neither of said Commissioners, nor any officer whatsoever of the District of Columbia, shall be accepted as surety upon any bond required to be given to the District of Columbia; nor shall any contractor be accepted as surety for any officer or other contractor in said District.

SEC. 3. That as soon as the Commissioners appointed and detailed as aforesaid shall have taken and subscribed the oath or affirmation hereinbefore required, all the powers, rights, duties, and privileges lawfully exercised by, and all property, estate, and effects now vested by law in the Commissioners appointed under the provisions of the act of Congress approved June twentieth, eighteen hundred and seventy-four, shall be transferred to and vested in and imposed upon said Commissioners; and the functions of the Commissioners so appointed under the act of June twentieth, eighteen hundred and seventy-four, shall cease and determine. And the Commissioners of the District of Columbia shall have power, subject to the limitations and provisions herein contained, to apply the taxes and other revenues of said District to the payment of the current expenses thereof, to the support of the public schools, the fire department and the police, and for that purpose shall take possession and supervision of all the offices, books, papers, records, moneys, credits, securities, assets, and accounts belonging or appertaining to the business or interests of the government of the District of Columbia, and exercise the duties, powers, and authority aforesaid; but said Commissioners, in the exercise of such duties, powers, and authority, shall make no contract, nor incur any obligation other than such contracts and obligations as are hereinafter provided for and shall be approved by Congress. The Commissioners shall have power to locate the places where hacks shall stand and change them as often as the public

interests require. Any person violating any orders lawfully made in pursuance of this power shall be subject to a fine of not less than ten nor more than one hundred dollars, to be recovered before any justice of the peace in an action in the name of the Commissioners. All taxes heretofore lawfully assessed and due, or to become due, shall be collected pursuant to law, except as herein otherwise provided; but said Commissioners shall have no power to anticipate taxes by a sale or hypothecation of any such taxes or evidences thereof; but they may borrow, for the first fiscal year after this act takes effect, in anticipation of collection of revenues, not to exceed two hundred thousand dollars, at a rate of interest not exceeding five per centum per annum, which shall be repaid out of the revenues of that year. And said Commissioners are hereby authorized to abolish any office, to consolidate two or more offices, reduce the number of employees, remove from office, and make appointments to any office under them authorized by law; said Commissioners shall have power to erect, light and maintain lamp-posts, with lamps, outside of the city limits, when, in their judgment, it shall be deemed proper or necessary: *Provided*, That nothing in this act contained shall be construed to abate in any wise or interfere with any suit pending in favor of or against the District of Columbia or the Commissioners thereof, or affect any right, penalty, forfeiture, or cause of action existing in favor of said District or Commissioners, or any citizen of the District of Columbia, or any other person, but the same may be commenced, proceeded for, or prosecuted to final judgment, and the corporation shall be bound thereby as if the suit had been originally commenced for or against said corporation. The said Commissioners shall submit to the Secretary of the Treasury for the fiscal year ending June thirtieth, eighteen hundred and seventy-nine, and annually thereafter, for his examination and approval, a statement showing in detail the work proposed to be undertaken by them during the fiscal year next ensuing, and the estimated cost thereof; also the cost of constructing, repairing, and maintaining all bridges authorized by law across the Potomac River within the District of Columbia, and also all other streams in said District; the cost of maintaining all public institutions of charity, reformatories, and prisons belonging to or controlled wholly or in part by the District of Columbia, and which are now by law supported wholly or in part by the United States or District of Columbia; and also the expenses of the Washington Aqueduct and its appurtenances; and also an itemized statement and estimate of the amount necessary to defray the expenses of the government of the District of Columbia for the next fiscal year: *Provided*, That nothing herein contained shall be construed as transferring from the United States authorities any of the public works within the District of Columbia now in the control or supervision of said authorities. The Secretary of the Treasury shall carefully consider all estimates submitted to him as above provided, and shall approve, disapprove, or suggest such changes in the same, or any item thereof, as he may think the public interest demands; and after he shall have considered and passed upon such estimates submitted to him, he shall cause to be made a statement of the amount approved by him and the fund or purpose to which each item belongs, which statement shall be certified by him, and delivered, together with the estimates as originally submitted, to the Commissioners of the District

of Columbia, who shall transmit the same to Congress. To the extent to which Congress shall approve of said estimates, Congress shall appropriate the amount of fifty per centum thereof; and the remaining fifty per centum of such approved estimates shall be levied and assessed upon the taxable property and privileges in said District other than the property of the United States and of the District of Columbia; and all proceedings in the assessing, equalizing and levying of said taxes, the collection thereof, the listing return and penalty for taxes in arrears, the advertising for sale and the sale of property for delinquent taxes, the redemption thereof, the proceedings to enforce the lien upon unredeemed property, and every other act and thing now required to be done in the premises, shall be done and performed at the times and in the manner now provided by law, except in so far as is otherwise provided by this act: *Provided*, That the rate of taxation in any one year shall not exceed one dollar and fifty cents on every one hundred dollars of real estate not exempted by law; and on personal property not taxable elsewhere, one dollar and fifty cents on every one hundred dollars, according to the cash valuation thereof; *And provided further*, Upon real property held and used exclusively for agricultural purposes, without the limits of the cities of Washington and Georgetown, and to be so designated by the assessors in their annual returns, the rate for any one year shall not exceed one dollar on every one hundred dollars. The collector of taxes, upon the receipt of the duplicate of assessment, shall give notice for one week, in one newspaper published in the city of Washington, that he is ready to receive taxes; and any person who shall, within thirty days after such notice given, pay the taxes assessed against him, shall be allowed by the collector a deduction of five per centum on the amount of his tax; all penalties imposed by the act approved March third, eighteen hundred and seventy-seven, chapter one hundred and seventeen, upon delinquents for default in the payment of taxes levied under said act, at the times specified therein, shall, upon payment of the said taxes assessed against such delinquent within three months from the passage of this act, with interest at the rate of six per cent. thereon, be remitted.

SEC. 4. That the said Commissioners may, by general regulations consistent with the act of Congress of March third, eighteen hundred and seventy-seven, entitled "An act for the support of the government of the District of Columbia for the fiscal year ending June thirtieth, eighteen hundred and seventy-eight, and for other purposes," or with other existing laws, prescribe the time or times for the payment of all taxes and the duties of assessors and collectors in relation thereto. All taxes collected shall be paid into the Treasury of the United States, and the same, as well as the appropriations to be made by Congress as aforesaid, shall be disbursed for the expenses of said District, on itemized vouchers, which shall have been audited and approved by the auditor of the District of Columbia, certified by said Commissioners, or a majority of them; and the accounts of said Commissioners, and the tax collectors, and all other officers required to account, shall be settled and adjusted by the accounting officers of the Treasury Department of the United States. Hereafter the Secretary of the Treasury shall pay the interest on the three-sixty-five bonds of the

District of Columbia issued in pursuance of the act of Congress approved June twentieth, eighteen hundred and seventy-four, when the same shall become due and payable; and all amounts so paid shall be credited as a part of the appropriation for the year by the United States toward the expenses of the District of Columbia, as hereinbefore provided:

SEC. 5. That hereafter when any repairs of streets, avenues, alleys, or sewers within the District of Columbia are to be made, or when new pavements are to be substituted in place of those worn out, new ones laid, or new streets opened, sewers built, or any works the total cost of which shall exceed the sum of one thousand dollars, notice shall be given in one newspaper in Washington, and if the total cost shall exceed five thousand dollars, then in one newspaper in each of the cities of New York, Philadelphia, and Baltimore, also for one week, for proposals, with full specifications as to material for the whole or any portion of the works proposed to be done; and the lowest responsible proposal for the kind and character of pavement or other work which the Commissioners shall determine upon shall in all cases be accepted: *Provided, however*, That the Commissioners shall have the right, in their discretion, to reject all of such proposals: *Provided*, That work capable of being executed under a single contract shall not be subdivided so as to reduce the sum of money to be paid therefor to less than one thousand dollars. All contracts for the construction, improvement, alteration, or repairs of the streets, avenues, highways, alleys, gutters, sewers, and all work of like nature shall be made and entered into only by and with the official unanimous consent of the Commissioners of the District, and all contracts shall be copied into a book kept for that purpose and be signed by the said Commissioners, and no contract involving an expenditure of more than one hundred dollars shall be valid until recorded and signed as aforesaid. No pavement shall be accepted nor any pavements laid except that of the best material of its kind known for that purpose, laid in the most substantial manner; and good and sufficient bonds to the United States, in a penal sum not less than the amount of the contract, with sureties to be approved by the Commissioners of District of Columbia, shall be required from all contractors, guaranteeing that the terms of their contract shall be strictly and faithfully performed to the satisfaction of and acceptance by said Commissioners; and that the contractors shall keep new pavements or other new works in repair for a term of five years from the date of the completion of their contracts; and ten per centum of the cost of all new works shall be retained as an additional security and a guarantee fund to keep the same in repair for said term, which said per centum shall be invested in registered bonds of the United States or of the District of Columbia and the interest thereon paid to said contractors. The cost of laying down said pavement, sewers, and other works, or of repairing the same, shall be paid for in the following proportions and manner, to wit: When any street or avenue through which a street railway runs shall be paved, such railway company shall bear all of the expense for that portion of the work lying between the exterior rails of the tracks of such roads, and for a distance of two feet from and exterior to such track or tracks on each

side thereof, and of keeping the same in repair; but the said railway companies, having conformed to the grades established by the Commissioners, may use such cobblestone or Belgian blocks for paving their tracks, or the space between their tracks, as the Commissioners may direct; the United States shall pay one-half of the cost of all work done under the provisions of this section, except that done by the railway companies, which payment shall be credited as part of the fifty per centum which the United States contributes toward the expenses of the District of Columbia for that year; and all payments shall be made by the Secretary of the Treasury on the warrant or order of the Commissioners of the District of Columbia or a majority thereof, in such amounts and at such times as they may deem safe and proper in view of the progress of the work: That if any street railway company shall neglect or refuse to perform the work required by this act, said pavement shall be laid between the tracks and exterior thereto of such railway by the District of Columbia; and if such company shall fail or refuse to pay the sum due from them in respect of the work done by or under the orders of the proper officials of said District in such case of the neglect or refusal of such railway company to perform the work required as aforesaid, the Commissioners of the District of Columbia shall issue certificates of indebtedness against the property, real or personal, of such railway company, which certificates shall bear interest at the rate of ten per centum per annum until paid, and which, until they are paid, shall remain and be a lien upon the property on or against which they are issued together with the franchise of said company; and if the said certificates are not paid within one year, the said Commissioners of the District of Columbia may proceed to sell the property against which they are issued, or so much thereof as may be necessary to pay the amount due, such sale to be first duly advertised daily for one week in some newspaper published in the city of Washington, and to be at public auction to the highest bidder. When street railways cross any street or avenue, the pavement between the tracks of such railway shall conform to the pavement used upon such street or avenue, and the companies owning these intersecting railroads shall pay for such pavements in the same manner and proportion as required of other railway companies under the provisions of this section. It shall be the duty of the Commissioners of the District of Columbia to see that all water and gas mains, service pipes, and sewer connections are laid upon any street or avenue proposed to be paved or otherwise improved before any such pavement or other permanent works are put down; and the Washington Gas-Light Company, under the direction of said Commissioners, shall, at its own expense take up, lay, and replace all gas mains on any street or avenue to be paved, at such time and place as said Commissioners shall direct. The President of the United States may detail from the Engineer Corps of the Army not more than two officers, of rank subordinate to that of the Engineer Officer belonging to the Board of Commissioners of said District to act as assistants to said Engineer Commissioner, in the discharge of the special duties imposed upon him by the provisions of this act.

SEC. 6. That from and after the first day of July, eighteen hundred and seventy-eight, the board of metropolitan police and the board of

school trustees shall be abolished; and all the powers and duties now exercised by them shall be transferred to the said Commissioners of the District of Columbia, who shall have authority to employ such officers and agents and to adopt such provisions as may be necessary to carry into execution the powers and duties devolved upon them by this act. And the Commissioners of the District of Columbia shall from time to time appoint nineteen persons, actual residents of said District of Columbia, to constitute the trustees of public schools of said District, who shall serve without compensation and for such terms as said Commissioners shall fix. Said trustees shall have the powers and perform the duties in relation to the care and management of the public schools which are now authorized by law.

SEC. 7. That the offices of sinking-fund commissioners are hereby abolished; and all duties and powers possessed by said commissioners are transferred to, and shall be exercised by, the Treasurer of the United States, who shall perform the same in accordance with the provisions of existing laws.

SEC. 8. That in lieu of the board of health now authorized by law, the Commissioners of the District of Columbia shall appoint a physician as health officer, whose duty it shall be, under the direction of the said Commissioners, to execute and enforce all laws and regulations relating to the public health and vital statistics, and to perform all such duties as may be assigned to him by said Commissioners; and the board of health now existing shall, from the date of the appointment of said health officer, be abolished.

SEC. 9. That there may be appointed by the Commissioners of the District of Columbia, on the recommendation of the health officer, a reasonable number of sanitary inspectors for said District, not exceeding six, to hold such appointment at any one time, of whom two may be physicians, and one shall be a person skilled in the matters of drainage and ventilation; and said Commissioners may remove any of the subordinates, and from time to time may prescribe the duties of each; and said inspectors shall be respectively required to make, at least once in two weeks, a report to said health officer, in writing, of their inspections, which shall be preserved on file; and said health officer shall report in writing annually to said Commissioners of the District of Columbia, and so much oftener as they shall require.

SEC. 10. That the Commissioners may appoint, on the like recommendation of the health officer, a reasonable number of clerks, but no greater number shall be appointed, and no more persons shall be employed under said health officer, than the public interests demand and the appropriation shall justify.

SEC. 11. That the salary of the health officer shall be three thousand dollars per annum; and the salary of the sanitary inspectors shall not exceed the sum of one thousand two hundred dollars per annum each; and the salary of the clerks and other assistants of the health officer shall not exceed in the aggregate the amount of seven thousand dollars, to be apportioned as the Commissioners of the District of Columbia may deem best.

SEC. 12. That it shall be the duty of the said Commissioners to report to Congress at the next session succeeding their appointment a draft of such additional laws or amendments to existing laws as in their opinion are necessary for the harmonious working of the system

hereby adopted, and for the effectual and proper government of the District of Columbia; and said Commissioners shall annually report their official doings in detail to Congress on or before the first Monday of December.

SEC. 13. That there shall be no increase of the present amount of the total indebtedness of the District of Columbia; and any officer or person who shall knowingly increase, or aid or abet in increasing, such total indebtedness, except to the amount of the two hundred thousand dollars, as authorized by this act, shall be deemed guilty of a high misdemeanor, and, on conviction thereof, shall be punished by imprisonment not exceeding ten years, and by fine not exceeding ten thousand dollars.

SEC. 14. That the term "school houses" in the act of June seventeenth, eighteen hundred and seventy, chapter thirty, was intended to embrace all collegiate establishments actually used for educational purposes, and not for private gain; and that all taxes heretofore imposed upon such establishments, in the District of Columbia, since the date of said act are hereby remitted, and where the same or any part thereof has been paid, the sum so paid shall be refunded. But if any portion of any said building, house, or grounds in terms excepted is used to secure a rent or income, or for any business purpose, such portion of the same, or a sum equal in value to such portion, shall be taxed.

SEC. 15. That all laws inconsistent with the provisions of this act be, and the same are hereby, repealed.

Approved June 11, 1878.

O